रजिस्ट्री सं० डी० एल० (एन) 04/0007/2003—05

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भारत का राजपत्र
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No. 42] NEW DELHI, OCTOBER 15—OCTOBER 21, 2006, SATURDAY/ASVINA 23—ASVINA 29, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 29 जून, 2006

का.आ. 4061.—सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्द्वारा, नीचे दी गई सारणी के कॉलम (1) में वर्णित अधिकारी को भारत सरकार के राजपत्रित अधिकारी होने के नाते कथित अधिनियम के उद्देश्यों हेतु सम्पदा अधिकारी नियुक्त करती है तथा आगे यह निर्देश देती है कि उक्त अधिकारी कथित सारणी के कॉलम (2) में विनिर्दिष्ट क्षेत्राधिकार की सीमाओं के भीतर केन्द्रीय रिजर्व पुलिस बल के नियंत्रण या अधिकार में सरकारी परिसरों के संबंध में कथित अधिनियम के अन्तर्गत अथवा उसके द्वारा सम्पदा अधिकारी को सौंपे गए कर्तव्यों का निर्वहन और प्रदत्त शक्तियों का प्रयोग करेगा।

सारणी

अधिकारी का पद नाम	सरकारी परिसरों की श्रेणियां तथा क्षेत्राधिकार की स्थानीय सीमाएं
1	2
अपर पुलिस उप महानिरीक्षक, ग्रुप केन्द्र, केन्द्रीय रिजर्व पुलिस बल, श्रीनगर	रामबाग (श्रीनगर) में केन्द्रीय रिजर्व पुलिस बल से संबंधित भूमि परिसर व परिसंपत्तियां

[फा. सं. ए-II-1/2006-प्रशा-1(श्रीनगर)-एमएचए-पीएफ-III]

एच. के. सुआनथंग, अवर सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 29th June, 2006

S. O. 4061.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being Gazetted Officer of the Government, to be Estate Officer for the purposes of the said Act, and further directs that the said officer shall exercise the powers conferred and perform the duties imposed, on estate officer by or under the said Act in respect of public premises under the control or occupation of the Central Reserve Police Force within the limits of jurisdiction specified in Column (2) of the said Table.

TABLE

Designation of the Officer	Categories of public premises and local limits of jurisdiction
1	2
Additional Deputy Inspector General of Police, Group Centre, Central Reserve Police Force, Srinagar.	Premises of land and assets belonging to the Central Reserve Police Force at Rambagh, Srinagar

[F. No. A-II-1/2006-Admn-I (SNR)-MHA-PF. III]

H.K. SUANTHANG, Under Secy.

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 5 अक्तूबर, 2006

का.आ. 4062.—भारतीय स्टेट बैंक (अनुषंगी बैंक) अधिनियम, 1959 की धारा 26 की उप-धारा (2क) के साथ पठित धारा 25 की उप-धारा (1) के खण्ड (गक) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा, श्री शंकरभाई भाघुभाई पटेल, विशेष सहायक, स्टेट बैंक आफ सौराष्ट्र, सूरत (बेगमपुरा), को स्टेट बैंक ऑफ सौराष्ट्र के कर्मकार कर्मचारियों में से अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए अथवा विधिवत रूप से उनके उत्तराधिकारी के नियुक्त होने तक अथवा उनके स्टेट बैंक ऑफ सौराष्ट्र के कर्मकार कर्मचारी बने रहने तक, जो भी पहले हो, स्टेट बैंक ऑफ सौराष्ट्र के बोर्ड में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 15/3/2006-आई आर]

रमेश चन्द, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 5th October, 2006

S. O. 4062. —In pursuance of clause (ca) of Sub-section (1) of Section 25 read with Sub-section (2A) of Section 26 of the State Bank of India (Subsidiary Banks) Act, 1959, the Central Government hereby appoints Shri Shankerbhai Bhaghubhai Patel, Special Assistant, State Bank of Saurashtra, Surat (Begumpura), as Director on the Board of State Bank of Saurashtra from amongst the employees of State Bank of Saurashtra, who are workmen, for a period of three years from the date of notification or until his successor is duly appointed or till he ceases to be a workman employee of the State Bank of Saurashtra, whichever is earlier.

[F. No. 15/3/2006-IR]

RAMESH CHAND, Under Secy.

नई दिल्ली, 10 अक्तूबर, 2006

का.आ. 4063.—भारतीय स्टेट बैंक अधिनियम 1955 (1955 का 23) की धारा 19 के खंड (ख) और धारा 20 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्द्वारा, श्री योगेश अग्रवाल (जन्म तिथि : 16-06-1950), प्रबंध निदेशक, स्टेट बैंक ऑफ पटियाला, को उनके पदभार ग्रहण करने की तारीख से, उनकी अधिवर्षिता की तारीख, यथा 30 जून, 2010 तक अथवा अगला आदेश होने तक, इनमें से जो भी पहले हो, 24050-650-26000 रुपए के वेतनमान में, भारतीय स्टेट बैंक के प्रबंध निदेशक के पद पर नियुक्त करती है।

[फा. सं. 8/03/2006-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 10th October, 2006

S. O. 4063.—In exercise of the powers conferred by clause (b) of Section19 and Sub-section (1) of Section 20 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Yogesh Agarwal (DOB : 16-06-1950) Managing Director, State Bank of Patiala as Managing Director, State Bank of India in the pay scale of Rs. 24050-650-26000 with effect from the date of his taking charge, till the date of his superannuation i.e. up to 30th June, 2010 or until further orders, whichever is earlier.

[F. No. 8/03/2006-BO-I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 10 अक्तूबर, 2006

का.आ. 4064.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खंड 3 के उप-खंड (1) और खंड 8 के उप-खंड (1) के साथ पठित बैंककारी कंपनी (उप-क्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उप-धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्द्वारा, श्री वी. संथानारामन (जन्म तिथि: 6-8-1949), महाप्रबंधक, इंडियन बैंक को उनके कार्यभार ग्रहण करने की तारीख से 31 अगस्त, 2009 तक अर्थात् अधिवर्षिता प्राप्त करने की तारीख तक अथवा अगले आदेश होने तक, इनमें से जो भी पहले हो, बैंक ऑफ बड़ौदा में 22050-500-24050 रुपए के वेतनमान में पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में नामोद्दिष्ट) के रूप में नियुक्त करती है।

[फा. सं. 8/03/2006-बीओ-I]

जी. बी. सिंह, उप सचिव

New Delhi, the 10th October, 2006

S. O. 4064. —In exercise of the powers conferred by clause (b) of Sub-section (3) of Section 9 of the Banking Companies (Acquisiton and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India hereby appoints Shri V. Sanathanaraman, (DoB : 6-8-1949) General Manager, Indian Bank, as a whole time Director (designated as Executive Director) Bank of Baroda in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. upto 31st August, 2009 whichever is earlier.

[F. No. 8/03/2006-BO-I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 11 अक्तूबर, 2006

का.आ. 4065.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 9(2) के उप-खण्ड (ख) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम,

1970/1980 की धारा 9 की उप-धारा (3)(छ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्द्वारा, नीचे दी गई सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को अधिसूचना जारी होने की तारीख से तीन वर्षों की अवधि के लिए अथवा अगला आदेश होने तक, इनमें से जो भी पहले हो, कालम (1) में विनिर्दिष्ट राष्ट्रीयकृत बैंकों के बोर्ड में सनदी लेखाकार श्रेणी में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है :-

सारणी

(1)	(2)
इलाहाबाद बैंक	श्री अशोक जैन, चार्टर्ड एकाउंटेंट, 118, जयपुर हाऊस, आगरा-282010
इंडियन ओरवसीज बैंक	श्री एम. रविन्द्र विक्रम, चार्टर्ड एकाउंटेंट, 68, गनरॉक एन्कलेव, सिकंदराबाद
यूनियन बैंक ऑफ इंडिया	श्री के. एस. श्रीनिवासन, चार्टर्ड एकाउंटेंट, "राजलक्ष्मी निवास" 47/1, सदुल्ला स्ट्रीट, टी. नगर, चेन्नई-600017

[फा. सं. 9/30/2005-बी ओ-I]

जी. बी. सिंह, उपसचिव

New Delhi, the 11th October, 2006

S.O. 4065.—In exercise of the powers conferred by clause (b) of Sub-section (3)(g) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (b) of clause 9(2) of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980 the Central Government, after consultation with Reserve Bank of India, hereby nominate the persons specified in column (2) of the table below as part time non-official Director under Chartered Accountant category, on the Boards of the Banks specified in column (1) of the said Table for a period of three years with effect from the date of notification and/or until further orders, whichever is earlier :—

TABLE

(1)	(2)
Allahabad Bank	Shri Ashok Jain, Chartered Accountant, 118, Jaipur House, Agra-282 010
Indian Overseas Bank	Shri M. Ravindra Vikram, Chartered Accountant, 68, Gunrock Enclave, Secunderabad
Union Bank of India	Shri K.S. Sreenivasan, Chartered Accountant, "Rajalakshmi Niwas" 47/1, Sadullah Street, T. Nagar, Chennai-600017

[F. No. 9/30/2005-BO. I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 10 अक्तूबर, 2006

का.आ. 4066.—भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 (1989 का 39) की धारा (6) की उप-धारा (2) के साथ पठित धारा (6) की उप-धारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा श्री राकेश रेवारी, मुख्य महाप्रबंधक, भारतीय लघु उद्योग विकास बैंक (सिडबी) को उनके कार्यभार ग्रहण करने की तारीख से चार वर्ष की अवधि के लिए अथवा अगला आदेश होने तक, जो भी पहले हो, 22050-500-24050 रुपए के वेतनमान में भारतीय लघु उद्योग विकास बैंक के पूर्णकालिक निदेशक (उप प्रबंध निदेशक के रूप में नामोदिष्ट) के रूप में नियुक्त करती है ।

[फा. सं. 3/3/2004-आईएफ-I]

एम. साहू, अवर सचिव

New Delhi, the 10th October, 2006

S.O. 4066.—In exercise of the powers conferred by clause (b) of Sub-section (1) of Section (6) read with Sub-section (2) of Section (6) of the Small Industries Development Bank of India Act, 1989 (39 of 1989), the Central Government hereby appoints Shri Rakesh Rewari, Chief General Manager, Small Industries Development Bank of India (SIDBI) as a Whole Time Director (Designated as Deputy Managing Director), in the Pay scale of Rs. 22050-500-24050 in SIDBI for a period of four years from the date of his taking over charge of the post or until further orders, whichever is earlier.

[F. No. 3/3/2004-IF-I]

M. SAHU, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 12 अक्तूबर, 2006

का.आ. 4067.—वित्त मंत्रालय, आर्थिक कार्य विभाग, बैंकिंग प्रभाग की दिनांक 01-06-2006 को भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii) में प्रकाशित, दिनांक 01-06-2006 की असाधारण अधिसूचना संख्या का.आ. 843 (अ) में आंशिक संशोधन करते हुए, निम्नलिखित परिवर्तनों (हिंदी रूपांतर में) को निम्नानुसार पढ़ा जाए :

	जैसा अधिसूचित किया गया	पृष्ठ और पंक्ति संख्या	पढ़ा जाए
1	होशंगाबाद क्षेत्रीय ग्रामीण बैंक	पृष्ठ 1, पंक्ति 14 पृष्ठ 2, पंक्ति 14 एवं 15	क्षेत्रीय ग्रामीण बैंक, होशंगाबाद
	(अंतरणकर्ता बैंक का नाम)	पृष्ठ 4, पंक्ति 19	
2	उमारी (जिले का नाम)	पृष्ठ 4, पंक्ति 19	उमरिया

[फा. सं. 1/4/2006-भारआरबी]

एम.के. मल्होत्रा, अवर सचिव

CORRIGENDUM

New Delhi, the 12th October, 2006

S. O. 4067.—In partial modification of Ministry of Finance, Department of Economic Affairs, Banking Division's Extraordinary notification No. S.O. 843(E) dated 1-6-2006 published in the Gazette of India, Part II, Section-3, Sub-section (ii) dated the 1st June, 2006, the following changes (in the English version) may be read as under:

	As notified	Page and line Number	To be read as
1	Hoshangabad Kshetriya Gramin Bank (name of the transferor bank)	Page 5 Line No. 3 & 16 Page 6 Line No. 1 and 2 Page 7 Line No. 22	Kshetriya Gramin Bank, Hoshangabad
2	Umari (Name of the District)	Page 7 Line No. 25	Umaria

[F. No. 1/4/2006-RRB]

M.K. MALHOTRA, Under Secy.

नई दिल्ली, 13 अक्तूबर, 2006

का.आ. 4068.—राष्ट्रीय बैंक (प्रबन्ध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 9(2) के उप-खण्ड (ख) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा (3)(छ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात, एतद्द्वारा, नीचे दी गई सारणी के कालम (2) में विनिर्दिष्ट व्यक्तियों को अधिसूचना जारी होने की तारीख से तीन वर्षों की अवधि के लिए और/अथवा अगला आदेश होने तक, इनमें से जो भी पहले हो, कालम (1) में विनिर्दिष्ट राष्ट्रीयकृत बैंकों के बोर्ड में सनदी लेखकार श्रेणी में अंशकालिक गैर-सरकारी निदेशक के रूप में नामित करती है :-

सारणी

(1)	(2)
आन्ध्रा बैंक	श्री अनूप प्रकाश गर्ग, चार्टर्ड एकाउंटेंट, दवा बाजार, एमवाई रोड, इन्दौर
बैंक आफ इंडिया	श्री कमल किशोर गुप्ता, चार्टर्ड एकाउंटेंट, 1372, कश्मीरी गेट, दिल्ली-110006
केनरा बैंक	श्री अजय माथुर, चार्टर्ड एकाउंटेंट, 168, गोल्फ लिंक्स, नई दिल्ली-110003
बैंक आफ बड़ौदा	श्री अमरजीत चोपड़ा, चार्टर्ड एकाउंटेंट, 11, एम्पायर इस्टेट, सुलतानपुर, एम.जी. रोड, नई दिल्ली-110030
कार्पोरेशन बैंक	श्री एस. रवि, चार्टर्ड एकाउंटेंट, डी-218, साकेत, नई दिल्ली-110017
इंडियन बैंक	डॉ. गुंदमी सुधाकर राव, चार्टर्ड एकाउंटेंट, "श्रीनिकेतन" 43/1, पांचवां क्रास, जयानगर, पहला ब्लाक, बंगलौर-560011

[फा. सं. 9/30/2005-बीओ-I]

जी.बी. सिंह, उप सचिव

New Delhi, the 13th October, 2006

S.O. 4068.—In exercise of the powers conferred by Sub-section (3)(g) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (b) of clause 9(2) of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980 the Central Government, after consultation with Reserve Bank of India, hereby, nominate the persons specified in column (2) of the table below as part time non-official Director under Chartered Accountant category, on the Boards of the Banks specified in column (1) of the said table for a period of three years from the date of notification and/or until further orders, which ever is earlier:-

TABLE

(1)	(2)
Andhra Bank	Shri Anup Prakash Garg, Chartered Accountant, Dawa Bazar, MY Road, Indore.
Bank of India	Shri Kamal Kishore Gupta, Chartered Accountant, 1372, Kashmere Gate, Delhi-110006
Canara Bank	Shri Ajay Mathur, Chartered Accountant, 168, Golf Links, New Delhi-110003.
Bank of Baroda	Shri Amarjit Chopra, Chartered Accountant, 11, Empre Estate, Sultanpur, M.G. Road, New Delhi-110030.
Corporation Bank	Shri S. Ravi, Chartered Accountant, D-218, Saket, New Delhi-110017.
Indian Bank	Dr. Gundmi Sudhakar Rao, Chartered Accountant. "Sriniketan" 43/1, 5th Cross, Jayanagar, 1st Block, Bangalore-560011.

[F. No. 9/30/2005-BO-I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 16 अक्तूबर, 2006

का.आ. 4069.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 की धारा 7 की उप-धारा (2) के साथ पठित धारा 6 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श करके, एतद्द्वारा, श्री लक्ष्मी चन्द, सेवानिवृत्त आईएएस तथा भारतीय रिजर्व बैंक के केन्द्रीय बोर्ड से श्रीमती शशि रेखा राजगोपालन को अधिसूचना की तारीख से अगले आदेश होने तक, जो भी पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक (नाबार्ड) के निदेशक बोर्ड में निदेशकों के रूप में नामित करती है ।

[फा. सं. 7/4/2004-बीओ-I]

जी. बी. सिंह, उप-सचिव

New Delhi, the 16th October, 2006

S.O. 4069. —In exercise of the powers conferred by clause (c) of sub-section (1) of section 6 read with sub-section (2) of section 7 of the National Bank for Agriculture and Rural Development Act, 1981, the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Lakshmi Chand, Retd. IAS and Smt. Shashi Rekha Rajagopalan from the Central Board of Reserve Bank of India as directors on the Board of Directors of National Bank for Agriculture and Rural Development (NABARD), from the date of notification and until further orders whichever is earlier.

[F. No. 7/4/2004-BO. I]

G.B. SINGH, Dy. Secy

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 9 अक्तूबर, 2006

(आयकर)

का.आ. 4070.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 138 की उप-धारा (1) के खण्ड (क) के उप-खण्ड (ii) के अनुपालन में केन्द्र सरकार एतद्द्वारा, उप-खण्ड के प्रयोजनार्थ महानिदेशक, कर्मचारी राज्य बीमा निगम को विनिर्दिष्ट करती है ।

[अधिसूचना सं. 284/2006/ फा.सं. 225/9/2006-आ.क.नि.-II]

रेणू जौहरी, निदेशक

(Department of Revenue)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 9th October, 2006

(INCOME TAX)

S.O. 4070.—In pursuance of sub-clause (ii) of clause (a) of sub-section (1) of section 138 of the Income-tax, 1961, (43 of 1961), the Central Government hereby specifies Director General, Employees' State Insurance Corporation, India for the purpose of the said sub-clause.

[Notification No. 284/2006/F. No.225/9/2006-ITA-II]

RENU JAUHRI, Director

प्रवासी भारतीय कार्य मंत्रालय

नई दिल्ली, 12 अक्तूबर, 2006

का.आ. 4071.—उत्प्रवास अधिनियम, 1983 की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्द्वारा श्री जगदानंदा पाण्ड़ा भा.प्र.से. (उड़ीसा : 83) को प्रवासी भारतीय कार्य मंत्रालय में 4 अक्तूबर, 2006 के पूर्वावाह्न से आगामी आदेशों तक के लिए उत्प्रवास महासंरक्षी के रूप में नियुक्त करती है।

[सं. ए-35013/1/2006-पीए]

एस. के. खुराना, उप-सचिव

MINISTRY OF OVERSEAS INDIAN AFFAIRS

New Delhi, the 12th October, 2006

S.O. 4071.—In exercise of the powers conferred under Section 3, Sub-section (1) of the Emigration Act, 1983, the Central Government hereby appoints Sh. Jagadananda Panda, IAS (OR:83) as Protector General of Emigrants in the Miniastry of Overseas Indian Affairs with effect from the forenoon of 4th October, 2006 until further orders.

[No. A.-35013/1/2006-PA]

S.K KHURANA, Dy Secy.

परमाणु ऊर्जा विभाग

मुंबई, 12 अक्तूबर, 2006

का.आ. 4072.—परमाणु ऊर्जा अधिनियम, 1962 की धारा 27 के साथ पठित परमाणु ऊर्जा (विकिरण संरक्षण) नियमावली, 2004 के नियम 2 के उप-नियम (1) के खंड (छ) द्वारा प्रदत्त शक्तियों का उपयोग करते हुए, और इस विभाग की दिनांक 17 जनवरी, 1992 की अधिसूचना सं. 18/1(5)/91-ईआर (भारत सरकार के राजपत्र में दिनांक 7 मार्च, 1992 को प्रकाशित सं. का.आ. 714) के अधिक्रमण में, केन्द्र सरकार, उक्त नियमों द्वारा सक्षम प्रधिकारी को प्रदत्त शक्तियों का उपयोग करने के लिए, एतद्द्वारा परमाणु ऊर्जा नियामक परिषद् के अध्यक्ष को, "सक्षम प्राधिकारी" के रूप में नियुक्त करती है ।

[सं. 30/1/2002-ईआर/वाल्यू. II/2875]

के. पद्मानाभन, अवर सचिव

DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 12th October, 2006

S.O. 4072.—In exercise of the powers conferred by Section 27 of the Atomic Energy Act, 1962 read with clause (g) of sub-rule (1) of rule 2 of the Atomic Energy (Radiation Protection) Rules, 2004 and in supersession of this Department Notification No. 18/1(5)/91-ER dated 17th January, 1992 (S.O. No. 714 published in the Gazette of India dated March 7, 1992), the Central Government hereby appoints the Chairman, Atomic Energy Regulatory Board as the "Competent Authority" to exercise the powers conferred on the Competent Authority by the said Rules.

[No. 30/1/2002-ER/Vol. II/2875]

K. PADMANABHAN, Under Secy.

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 3 अक्तूबर, 2006

का.आ. 4073.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स सुपरिटेंडेंस कंपनी ऑफ इंडिया (प्राइवेट) लिमिटेड जो कि 186/2, एस.सी. रोड, पहली मंजिल, शैषाद्रीपुरम, बैंगलोर-560020, में स्थित है, को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए वाणिज्य मंत्रालय, भारत सरकार की अधिसूचना सं. का.आ. 3975, तारीख 20 दिसंबर, 1965 के साथ उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क ग्रुप-1 अर्थात् लौह

अयस्क और मैंगनीज अयस्क (मैंगनीज डायआक्साइड को छोड़कर) के निर्यात से पूर्व निरीक्षण के लिए निम्नलिखित शर्तों के अधीन बैंगलोर में उक्त खनिजों एवं अयस्कों का निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :--

(i) कि मैसर्स सुपरिटेंडेंस कंपनी ऑफ इंडिया (प्राइवेट) लिमिटेड, बैंगलोर खनिज तथा अयस्क-ग्रुप-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र प्रदान करने में उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और

(ii) कि मैसर्स सुपरिटेंडेंस कंपनी ऑफ इंडिया (प्राइवेट) लिमिटेड, बैंगलोर, इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निदेशों द्वारा जो समय-समय पर लिखित में, निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद् द्वारा दिए जाएं, आबद्ध होगी ।

[फा. सं. एफ. 5/3/2006/ईआई एंड ईपी]

वी.के. गाबा, उप सचिव

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 3rd October, 2006

S.O. 4073.—In exercise of the powers conferred by the sub-section (1) of seciton 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rule, 1964, the Central Government hereby recognises M/s. Superintendence Company of India (Pvt) Ltd., located at 186/2, S.C. Road, 1st Floor, Seshadripuram, Bangalore-560020, as an Agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores Group-I, namely, Iron Ore and manganese Ore (excluding Manganese Dioxide), specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce number S.O. 3975, dated the 20th December, 1965, prior to export of the said Minerals and Ores, at Bangalore, subject to the following conditions, namely :—

(i) that M/s. Superintendence Company of India (Pvt) Ltd., Bangalore shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to exmine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores-Group I, (Inspection) Rules, 1965; and

(ii) that M/s. Superintendence Company of India (Pvt) Ltd., Bangalore in the performance of their funciton under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. F. 5/3/2006/EI & EP]

V. K. GAUBA, Dy. Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 13 अक्तूबर, 2006

का.आ. 4074.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम, 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उप-नियम (2) और (4) के अनुसरण में, दक्षिण मध्य रेलवे के सिकंदराबाद रेलवे स्टेशन को, जहां 80% से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्द्वारा अधिसूचित करता है ।

[सं. हिंदी-2006/रा.भा. 1/12/1]

कृष्णा शर्मा, संयुक्त निदेशक (राजभाषा)

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 13th October, 2006

S.O. 4074.—Ministry of Railways (Railway Board), in pursuance of Sub-rules (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the official purposes of the Union) hereby, notify the Railway Station, Sucunderabad of South-Central Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi.

[No. Hindi-2006/O.L. 1/12/1]

KRISHNA SHARMA, Jt. Director, (O.L.)

युवा कार्यक्रम और खेल मंत्रालय

नई दिल्ली, 29 सितम्बर, 2006

का.आ. 4075.—केन्द्र सरकार एतद्द्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, युवा कार्यक्रम और खेल मंत्रालय के स्वायत्तशासी कार्यालय भारतीय खेल प्राधिकरण-विशेष क्षेत्र खेल केन्द्र, नामची जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है ।

[मि. सं. ई. 11011/6/2005-हि.ए.]

शैलेश, संयुक्त सचिव

MINISTRY OF YOUTH AFFAIRS & SPORTS

New Delhi, the 29th September, 2006

S.O. 4075. —In pursuance of sub-rule (4) of Rule 10 of the Official Language (use for official purpose of the Union) Rule 1976, the Central Government hereby notifies Sports Authority of India-Special Area Sports Centre, Namchi autonomous office under Ministry of Youth Affairs & Sports, whereof more than 80% staff have acquired working knowledge of Hindi.

[F. No. E-11011/6/2005-H.U.]

SAILESH, Jt. Secy.

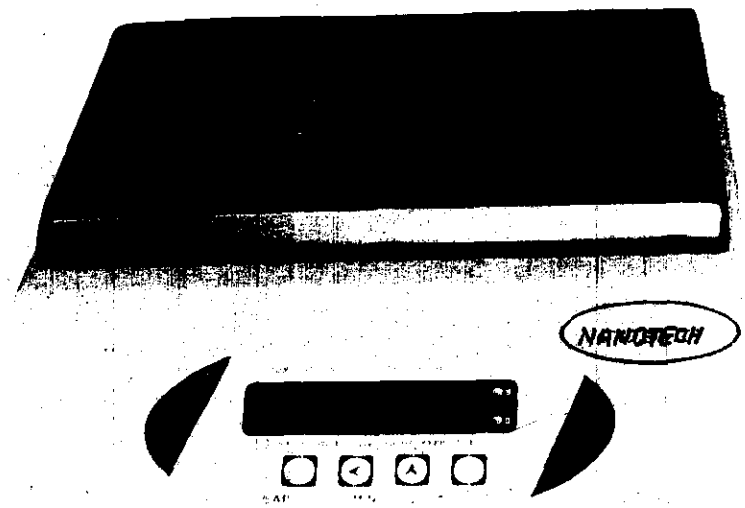
उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 4 अगस्त, 2006

का. आ. 4076.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स नैनो-टैक इंस्ट्रूमेंटेशन, 6/192, प्रकाश नगर, बोडला रोड, शाहगंज, आगरा, उत्तर प्रदेश द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एन टी एच" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "नैनोटैक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/235 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार लोड सेल आधारित अस्वचालित (टेबल टाप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 2 ग्रा. है। इसमें एक आद्येयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आद्येयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्राम तक "ई" मान के लिए 100 से 5,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्राम या उससे अधिक के 'ई' मान के लिए 5,000 से 50,000 तक की रेंज में सत्यापन मान सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(58)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

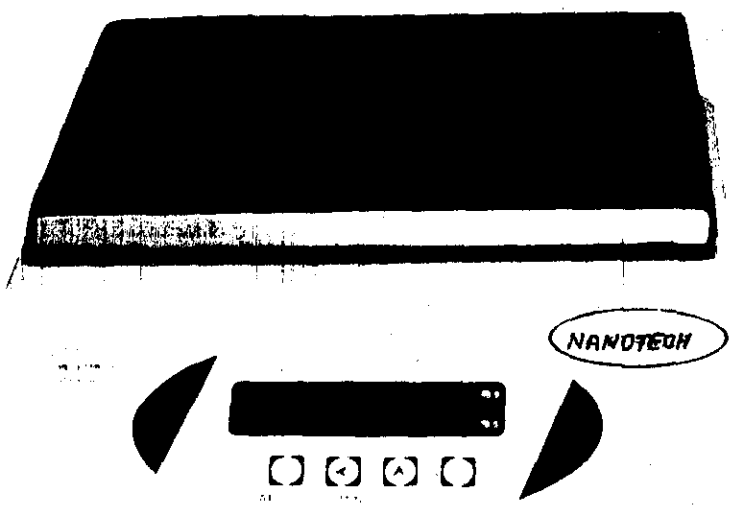
MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION
(Department of Consumer Affairs)

New Delhi, the 4th August, 2006

S.O. 4076.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of "NTH" series of high accuracy (Accuracy class II) and with brand name "NANOTECH" (hereinafter referred to as the said Model), manufactured by M/s. Nano-Tech Instrumentation, 6/192, Parkash Nagar, Bodla Road, Shahganj, Agra, U.P. and which is assigned the approval mark IND/09/06/235;

The said Model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply;



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity up to 50 kg. and with number of verification scale interval (n) in the range of 100 to 5,000 for 'e' value of 1mg. to 50mg. and with number of verification scale interval (n) in the range of 5,000 to 50,000 for 'e' value of 100mg. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

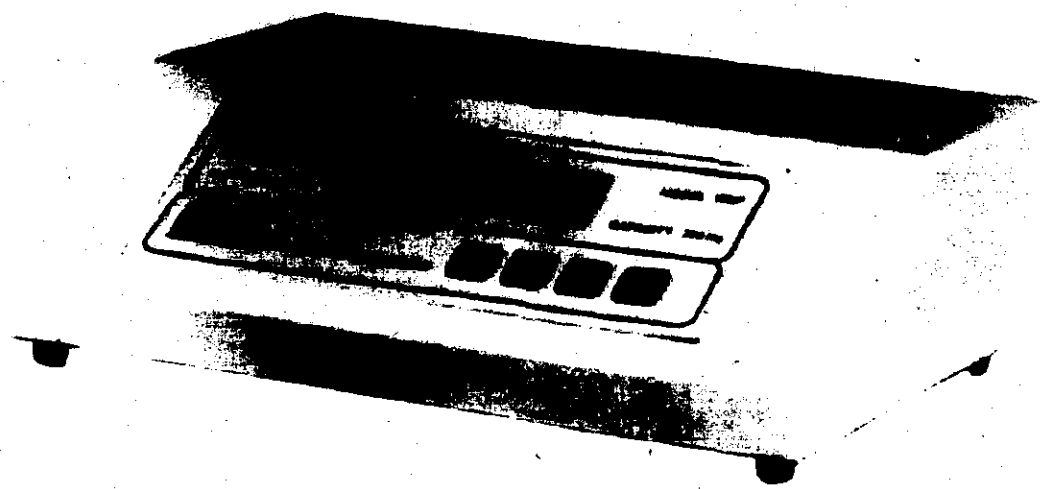
[F. No. WM-21(58)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4077.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अत:, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स माइक्रो कंट्रोल सिस्टम्स, संख्या 24/1264/5, होटल राजा के पास, शाहजहां पुर रोड, इचलकरांजी-416115, जिला कोलाहपुर, महाराष्ट्र द्वारा निर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एम सी एस" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (वेब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम "एम सी एस-डब्ल्यू बी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/204 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (वेब्रिज प्रकार) है । इसकी अधिकतम क्षमता 10 टन और न्यूनतम क्षमता 100 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायाग्राम, कार्यकारी सिद्धान्त आदि की शर्तों के संबंध में परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उसके अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 5 टन से अधिक और 30 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

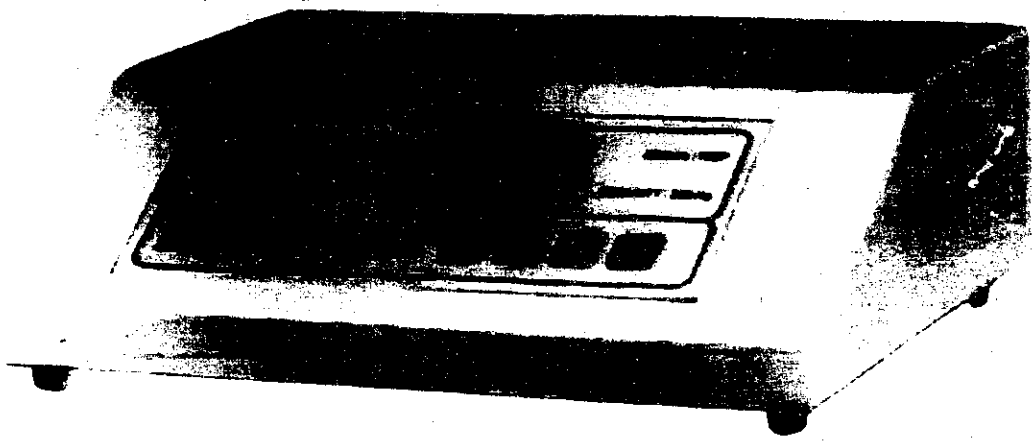
[फा. सं. डब्ल्यू एम-21(60)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2006

S.O. 4077.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Weighbridge type) with digital indication of medium accuracy (Accuracy class III) of series 'MCS' and with brand name "MCS-WB" (hereinafter referred to as the said model), manufactured by M/s. Micro Control Systems, No. 24/1264/5, Near Hotel Rajas, Shahapur Road, Ichalkaranji-416 115, District-Kolhapur, Maharashtra which is assigned the approval mark IND/09/06/204;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Weighbridge type) with a maximum capacity of 10 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 30 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 g. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

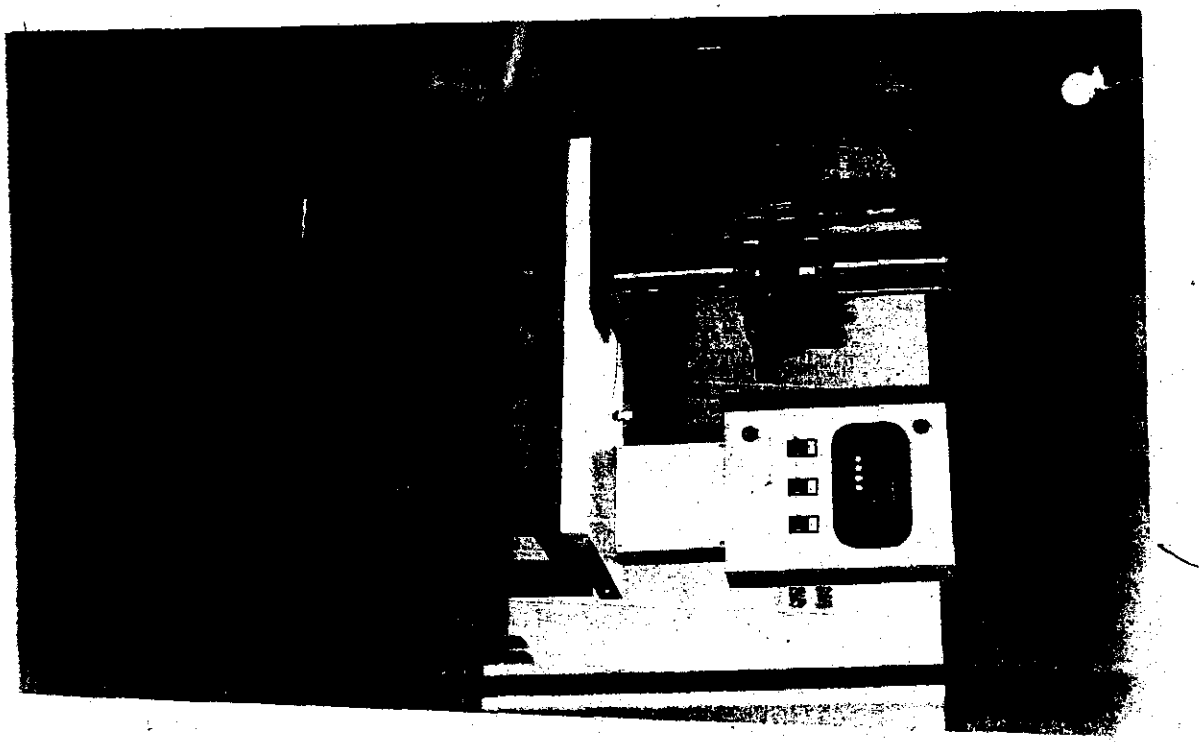
[F. No. WM-21(60)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4078.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अत:, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंडियन आटोमेशन, 1 प्रथम स्टेज, पीनिया इंडस्ट्रीयल एस्टेट, बंगलौर-560058 द्वारा विनिर्मित यथार्थता वर्ग, रिफ (X), जहां X=1वाले "आईए-एलएफएम" श्रृंखला के आटोमैटिक ग्रेवीमीट्रिक फिलिंग उपकरण (बैरल फिलिंग) के मॉडल का, जिसके ब्रांड का नाम "इंडियाना" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/385 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक पेन्युमैटिकली नियंत्रित भार सेल आधारित अस्वचालित ग्रेवीमिट्रिक फिलिंग उपकरण (बैरल फिलर) है। जिसके साथ इलैक्ट्रानिक नियंत्रित पैनल के साथ व्हेईंग सिस्टम लगा हुआ है । इसकी अधिकतम क्षमता 300 कि.ग्रा. अथवा इसके समतुल्य आयतन है । इसकी अधिकतम भरम दर 6 फिल्म प्रति मिनट है । यह मशीन सहिज प्रवाह वाले उत्पाद जैसे तेल, दूध, फलों के रस, पेंट, पेस्टीसाइडस, केमिकल एडेसिव इत्यादि भरने के लिए तैयार की गई है । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम को दर्शाता है । उपकरण 230 वोल्ट और 50 हट्र्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायाग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी शामिल होंगे जो कंटीनयुअस टोटलाइजिंग आटोमैटिक व्हेईंग 30 कि.ग्रा./एम से अधिक और 300 कि.ग्रा./एम तक की अधिकतम क्षमता वाले हैं ।

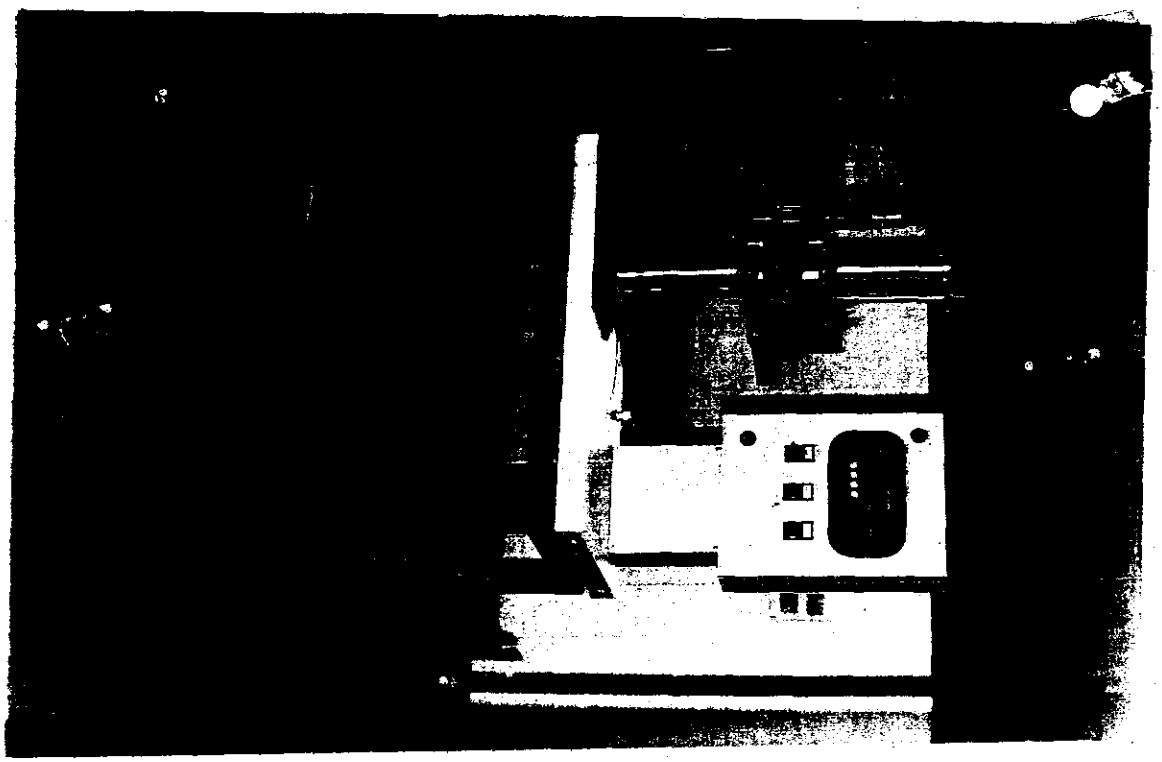
[फा. सं. डब्ल्यू एम-21(94)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2006

S.O. 4078.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of Automatic Gravimetric Filling Instrument (Barrel filler) belonging to accuracy class, Ref(x), where x-1 of 'IA-LM' series with brand name "INDIANA" (herein referred to as the said Model) manufactured by M/s Indiana Automation, 1st Stage, Peenya Industrial Estate, Bangalore-560058 and which is assigned the approval mark IND/09/06/385;



The said model is a pneumatically controlled load cell based Automatic Gravimetric Filling Instrument (Barrel filler) along with weighing system with an electronic controlled panel. Its maximum capacity is 300kg or equivalent volume. Its maximum fill rate is 6 fills per minute. The machine is designed for filling the free flowing products like oil, milk, fruit juice, paints, pesticides, chemical adhesive etc. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts and 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with capacity in the range of 30kg to 300kg or equivalent volume, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

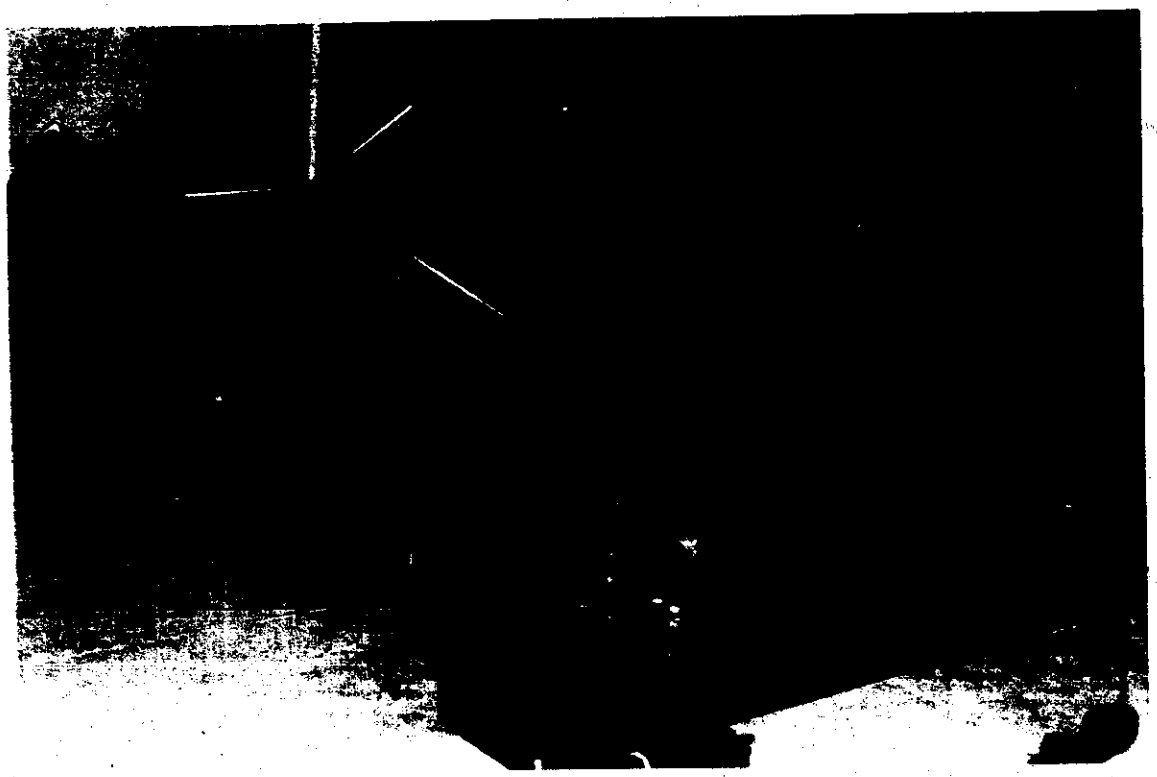
[F. No. WM-21(94)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2006

का.आ. 4079.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इंडियन आटोमेशन, 1 प्रथम स्टेज, पीनिया इंडस्ट्रीयल एस्टेट, बंगलौर-560058 द्वारा निर्मित यथार्थता वर्ग 1 वाले "1 ए-बी डब्ल्यू" शृंखला के कंटीन्युअस टोटलाइजिंक आटोमैटिक व्हेइंग इंस्ट्रूमेंट (बैल्ट व्हेअर) के मॉडल का, जिसके ब्रांड का नाम "इंडियाना" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/391 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल विकृति गेज प्रकार भार सेल आधारित कंटीन्युअस टोटलाइजिंक आटोमैटिक व्हेइंग इंस्ट्रूमेंट (बैल्ट व्हेअर) तोलन उपकरण है। इसके साथ बैल्ट कनव्हेअर व्हेईंग सिस्टम तथा इलैक्ट्रानिक कंट्रोल पैनल लगा है। इसकी अधिकतम क्षमता 300 केजी/एम है और स्केल इन्टरवैल 1 कि.ग्रा. है। इसकी अधिकतम प्रवाह दर (क्यूमॉक्स) 4000 टन प्रति घंटा है और न्यूनतम प्रवाह दर (क्यूमिन) 22.7 टन प्रति घंटा है। लिक्विड क्रिस्टल प्रदर्श तोलन परिणाम को दर्शाता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायाग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन/परिवर्धन नहीं किया जाएगा।

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी शामिल होंगे जो 30 कि.ग्रा. से अधिक और 300 कि.ग्रा. तक की अधिकतम क्षमता अथवा समतुल्य आंयतन वाले हैं।

[फा. सं. डब्ल्यू एम-21(94)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

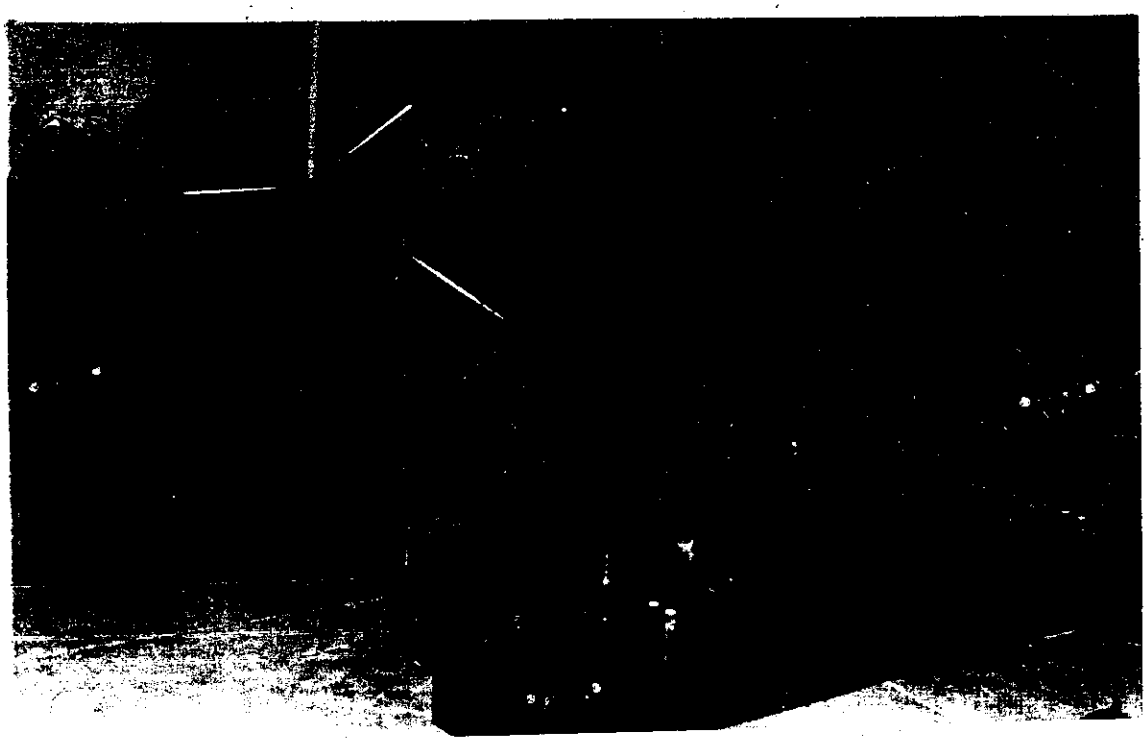
New Delhi, the 19th September, 2006

S.O. 4079.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of Continuous Totalizing Automatic Weighing Instrument (Belt Weigher) belonging to accuracy class-I, of 'IA-BW' series with brand name "INDIANA" (herein referred to as the said Model) manufactured by M/s Indiana Automation, 1st Stage, Peenya Industrial Estate, Bangalore-560058 and which is assigned the approval mark IND/09/06/391;

The said model is a strain gauge type load cell based Continuous Totalizing Automatic Weighing Instrument (Belt Weigher) along with belt conveyor, weighing system and electronic control panel its maximum capacity of 300kg/m and scale interval is 1kg. Its maximum flow rate Qmax is 4000 tonne/hour and minimum flow rate Qmin is 22.7 tonne/hour. The Liquid Crystal Display (LCD) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.



Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the Continuous Totalizing Automatic Weighing Instrument of similar make, accuracy and performance of same series with capacity in the range of 30kg to 300kg/m manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

[F. No. WM-21(94)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2006

का.आ. 4080.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स बिजेरबा इंडिया प्रा. लिमिटेड, नं. 27 एकर प्रताप कोठारी कम्पाउंड नं. 3, टीकूजी नी वाडी के सामने, मानापाडा थाणे (वैस्ट) 400 607 महाराष्ट्र द्वारा यथार्थता वर्ग आर ई एफ (एक्स) जहां एक्स ≤ 1 है वाले ''ई पी-डब्ल्यू'' शृंखला के स्वचालित कैच व्हेंइंग उपकरण (चैक वेयर प्रकार) के मॉडल का, जिसके ब्रांड का नाम "बिजेरबा" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/361 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।

उक्त मॉडल एक विकृति गेज प्रकार भार सेल आधारित स्वचालित कैच व्हेंइंग उपकरण (चैक वेयर) तोलन उपकरण है। इसकी अधिकतम क्षमता 60 कि.ग्रा. है । सत्यापन अन्तराल (ई) 10 ग्रा. है इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। लिक्विड क्रिस्टल डिस्पले (एल सी डी) प्रदर्श तोलन परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है। इसकी बैल्ट की गति 0.4 एम/एस से 1.33 एम/एस की रेंज में है । परीक्षण को ओ आई एम एल आर-50 के निर्दिष्टों के अनुसार किया जाता है ।

स्टापिंग प्लेट को मुद्रांकित करने के अतिरिक्त कपटपूर्ण व्यवहारों के लिए मशीन को खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री पूर्व अथवा बिक्री पश्चात् उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, कार्यकारी सिद्धान्त आदि की शर्तों के संबंध में परिवर्तित नहीं किया जाएगा ।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 60 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और ''ई'' मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(125)/2006]

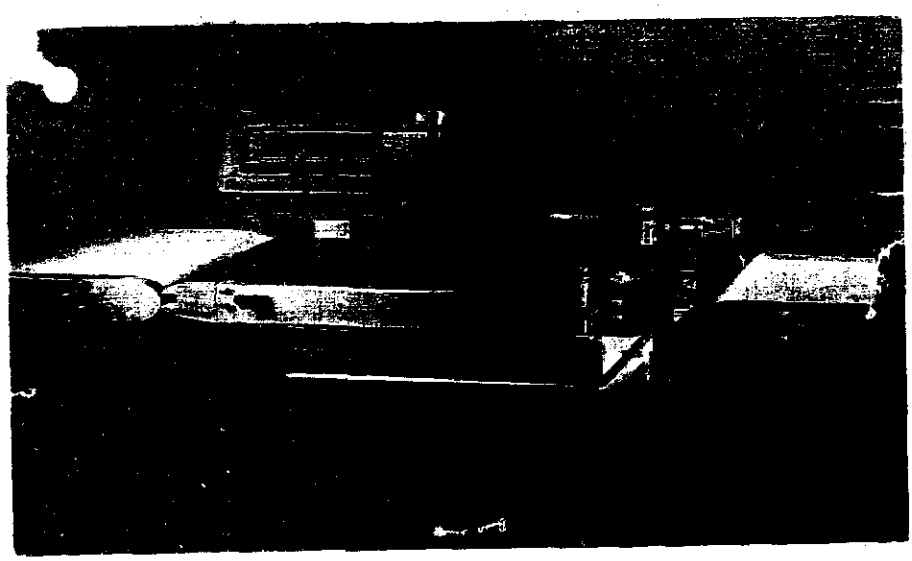
आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2006

S.O. 4080.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of Automatic Catch Weighing Instrument (Check Weigher) belonging to accuracy class, Ref(x), where $x \leq 1$ of 'EP-W' series with brand name "BIZERBA" (herein referred to as the said Model) manufactured by M/s. Bizerba India Pvt. Ltd., No. 27 Acre Pratap Kothari Compound No. 3, Opposite Tikuji Ni Wadi, Manapada, Thane (West)-400 607, Maharashtra and which is assigned the approval mark IND/09/06/361;

The said model is a strain gauge type load cell based Automatic Catch Weighing Instrument (Check Weigher). Its maximum capacity is 60kg. and scale interval is 10g. It has a tare device with a 100 per cent subtractive retained tare effect. The Liquid Crystal Display (LCD) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternate current power supply. Its belt speed is in the range of 0.4m/s to 1.33m/s. The test has been conducted as per OIML R-50 specification.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity up to 60 kg. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with number of 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

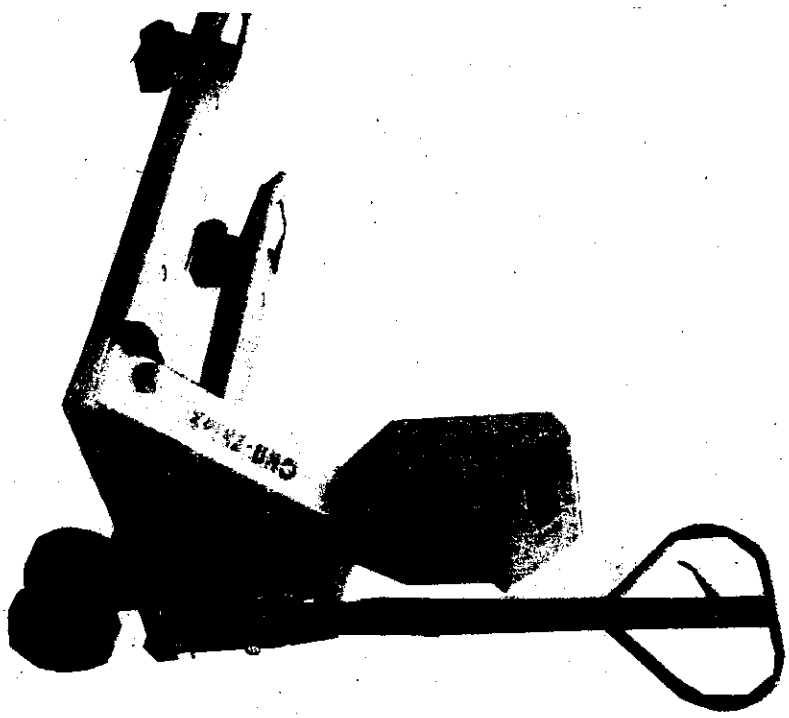
[F. No. WM-21(125)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 19 सितम्बर, 2006

का. आ. 4081.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स बिजेरबा इंडिया प्राईवेट लि., 27 एकड़ प्रताप कोठारी कम्पाउंड, टीकू जीनी वाडी के समाने, मानापाडा थाणे (वैस्ट)-400 607 महाराष्ट्र द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "बी जेड-पीटी" श्रृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (पैलेट कार) के मॉडल का, जिसके ब्रांड का नाम "बिजेरबा" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/425 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार भार सेल आधारित अस्वचालित (पैलेट कार) तोलन उपकरण है । इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 10 कि.ग्रा. है । सत्यापन मापमान अन्तराल 500 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ।

स्टांपिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को उसकी बिक्री से पूर्व अथवा बाद में उसकी यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन आदि की शर्तों पर परिवर्तित/परवर्धित नहीं किया जाएगा ।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी श्रृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान $1\times10^{*}$, $2\times10^{*}$ या $5\times10^{*}$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

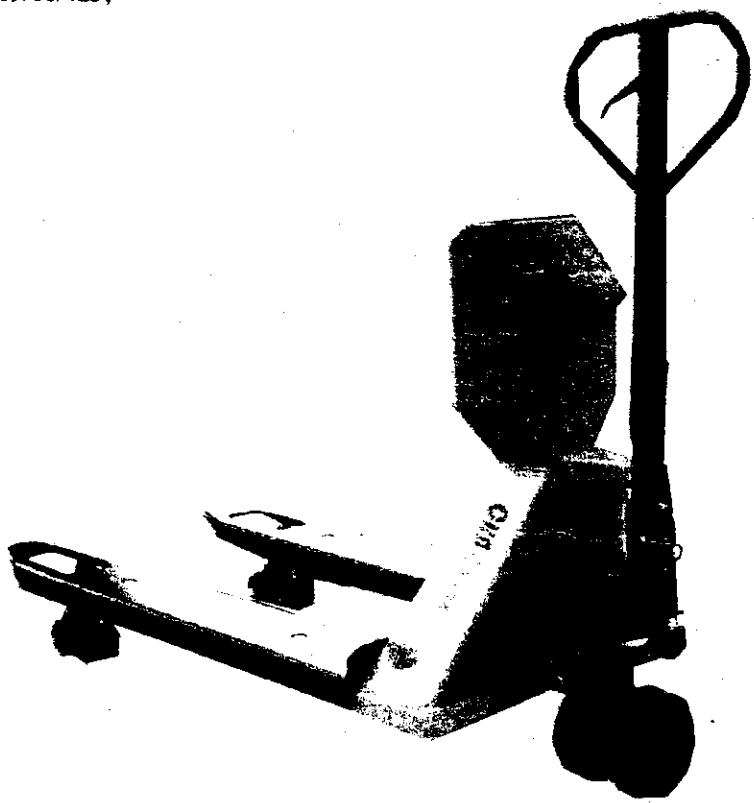
[फा. सं. डब्ल्यू एम-21(125)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 19th September, 2006

S.O. 4081 .—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Pallet Car) with digital indication of medium accuracy (Accuracy class-III) of series 'BZ-PT' and with brand name "BIZERBA" (herein referred to as the said model) manufactured by M/s. Bizerba India Pvt. Ltd., 27 Acre Pratap Kothari Compound, Opposite Tiku Jini Wadi, Manapada, Thane (West)-400 607, Maharashtra and which is assigned the approval mark IND/09/06/425;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Pallet Car) with a maximum capacity of 1000kg and minimum capacity of 10kg. The verification scale interval (e) is 500g. It has a tare device with a 100 per cent subtractive retained tare effect. The Liquid Crystal Display (LCD) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternate current power supply;

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc, before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50kg. and up to 5000kg. with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with number 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufacture by the same manufactured in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

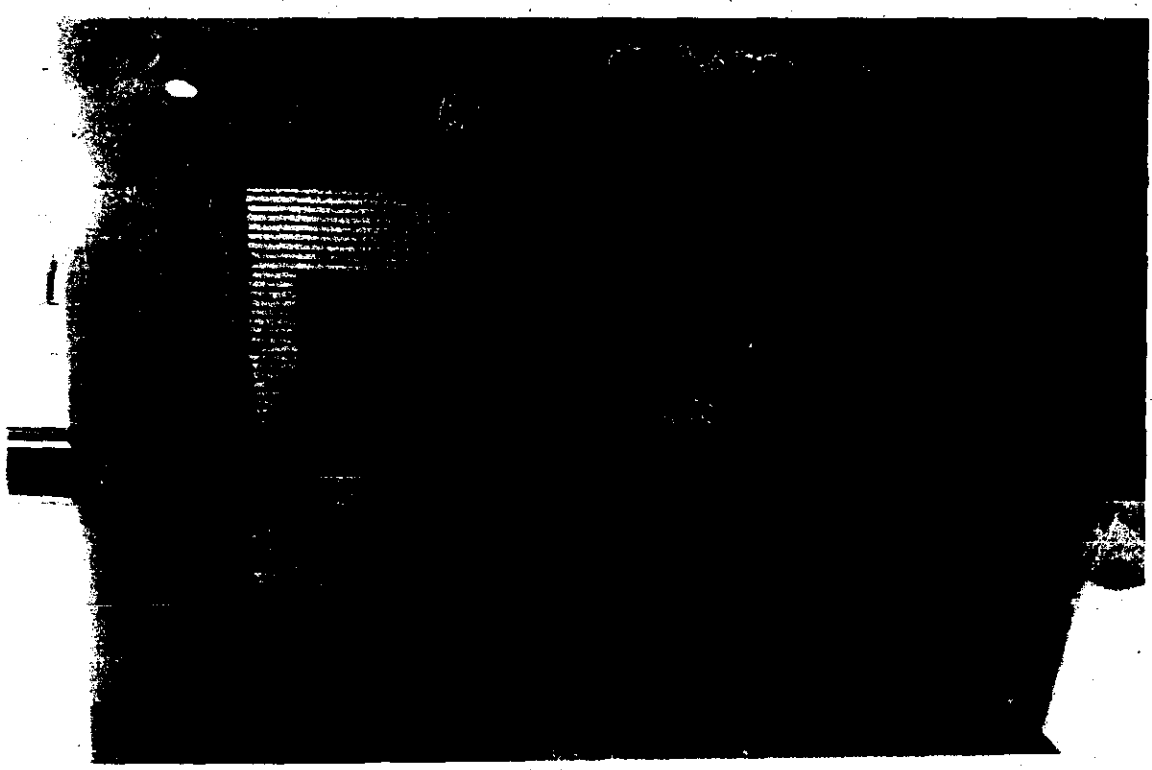
[F. No. WM-21(125)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4082.--केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स सूमो डिजीटल इनकार्पोरेशन, बाई लेंड नं. 1, नवीन नगर, जनपथ, राजगर रोड, जू रोड, गुवाहाटी-781024 असम द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एस यू सी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (तोल सेतु के लिए कंवर्जन किट प्रकार) के मॉडल का, जिसके ब्रांड का नाम "सूमो" है (जिसे इसमें उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/2005/135 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का लोड सेल आधारित अस्वचालित (तोल सेतु के लिए कंवर्जन किट प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 40,000 कि. ग्रा. और न्यूनतम क्षमता 200 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) का मान 10 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल विनिर्मित किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के 'ई' मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अन्तराल (एन) सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू एम-21(258)/2003]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 21st September, 2006

S.O. 4082.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic (Conversion kit for Weighbridge) weighing instrument and digital indication of "SUC" series of medium accuracy (Accuracy class III) and with brand name "SUMO" (herein referred to as the said model), manufactured by M/s. Sumo Digital Incorporation, Bye Land No. 1, Navin Nagar, Janapath, Rajgar Road, Zoo Road, Guwahati-781024, Assam, and which is assigned the approval mark IND/09/05/135;

The said model is a strain gauge type load cell based non-automatic weighing instrument (Conversion kit for Weighbridge) with a maximum capacity of 40,000 kg and minimum capacity of 200 kg. The verification scale interval (e) is 10 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Doide (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 100 tonne with verification scale interval (n) in range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

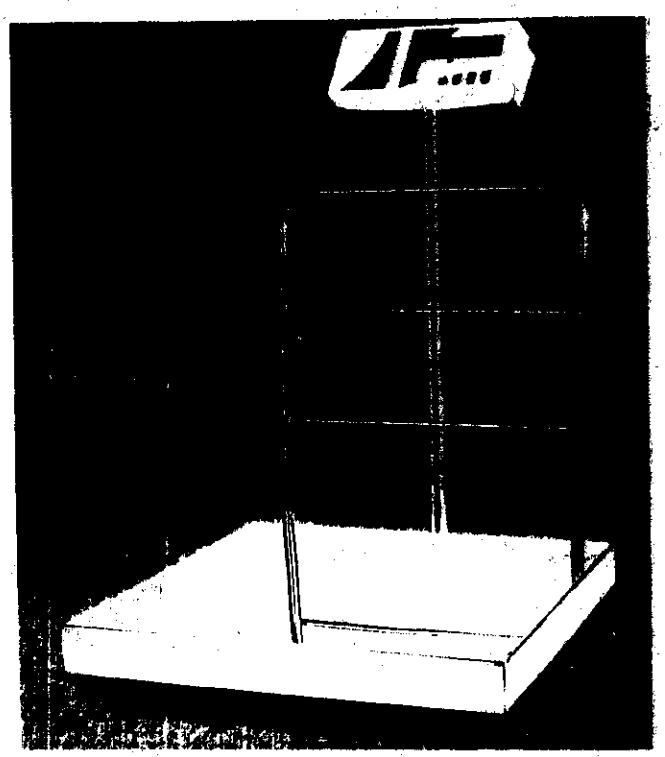
[F. No. WM-21(258)/2003]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4083.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ए डी के एन्टरप्राइज, ए-932, भाविक नगर, आदीनाथ नगर, पार्ट-1, ओढव, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "बी एच पी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "भारत" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/382 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (प्लेटफार्म प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 1000 कि. ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है। इसमें एक आध यतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है। उपकरण 230, वोल्ट 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, कार्यकारी सिद्धान्त आदि की शर्तों, के संबंध में परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के 'ई' मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अन्तराल सहित 50 कि. ग्रा. से अधिक और 5000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

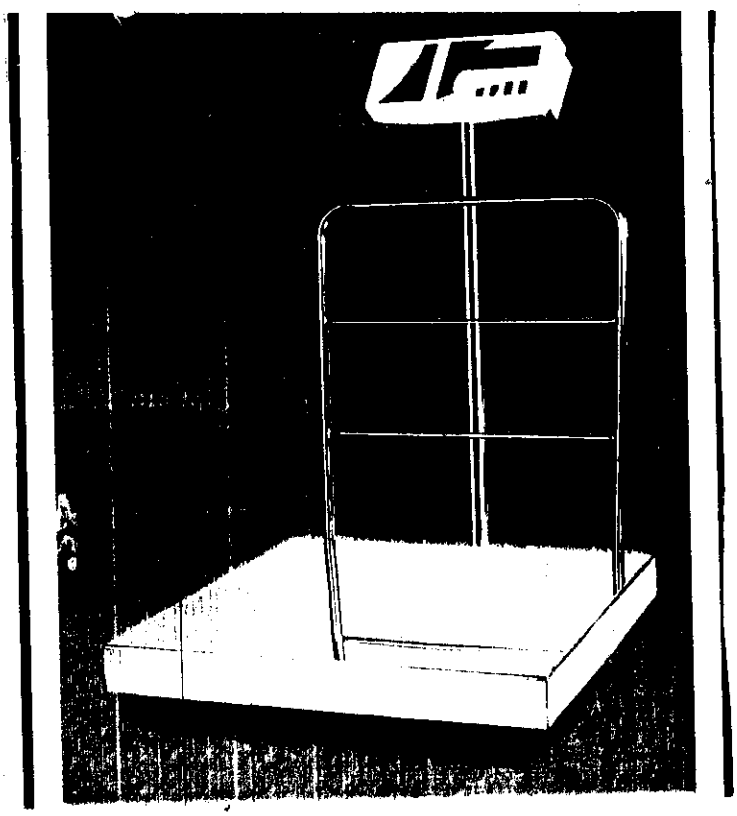
[फा. सं. डब्ल्यू एम-21(02)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 21st September, 2006

S.O. 4083.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, he Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Platform type) with digital indication of medium accuracy (Accuracy class-III) of series "BHP" and with brand name "BHARAT" (hereinafter referred to as the said model), manufactured by M/s. A.D.K. Enterprise, A-932, Bhavik Nagar, Adinath Nagar, Part-I, Odhav, Ahmedabad and which is assigned the approval mark IND/09/06/382;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 1000 kg and minimum capacity of 2 kg. The verification scale interval (e) is 100 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Doide (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the power conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and upto 5000 kg with verification scale interval (n) in range of 500 to 10,000 for 'e' value of 5 g or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

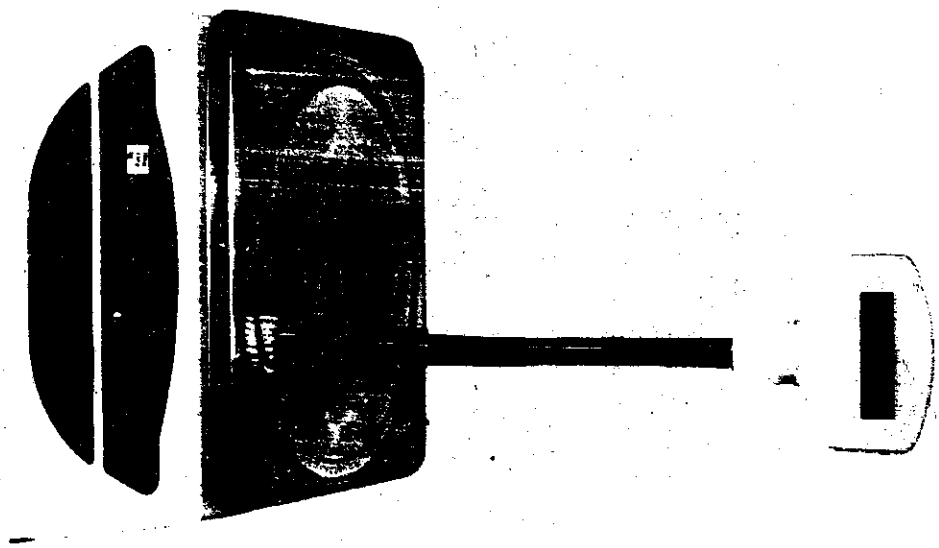
[F. No. WM-21(02)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4084.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स ए डी के एन्टरप्राइज, ए-932, भाविक नगर, आदीनाथ नगर, पार्ट-1, ओढव, अहमदाबाद द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "बी एच टी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबल टॉप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "भारत" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/381 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित (टेबलटॉप प्रकार) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और उक्त मॉडल को उसकी बिक्री से पूर्व अथवा बाद में सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों के संबंध में परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन अन्तराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

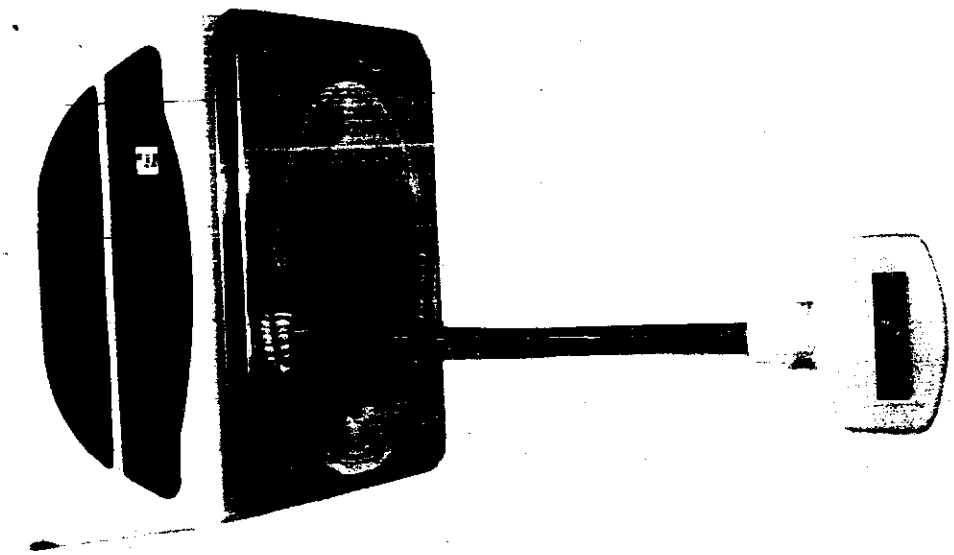
[फा. सं. डब्ल्यू एम-21(02)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 21st September, 2006

S.O. 4084.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic weighing instrument (Table top type) with digital indication of medium accuracy (Accuracy class III) of series "BHT" and with brand name "BHARAT" (hereinafter referred to as the said model), manufactured by M/s. A.D.K. Enterprise, A-932, Bhavik Nagar, Adinath Nagar, Part-I, Odhav, Ahmedabad and which is assigned the approval mark IND/09/06/381;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100 g. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Doide (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity upto 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2 g and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 65g. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

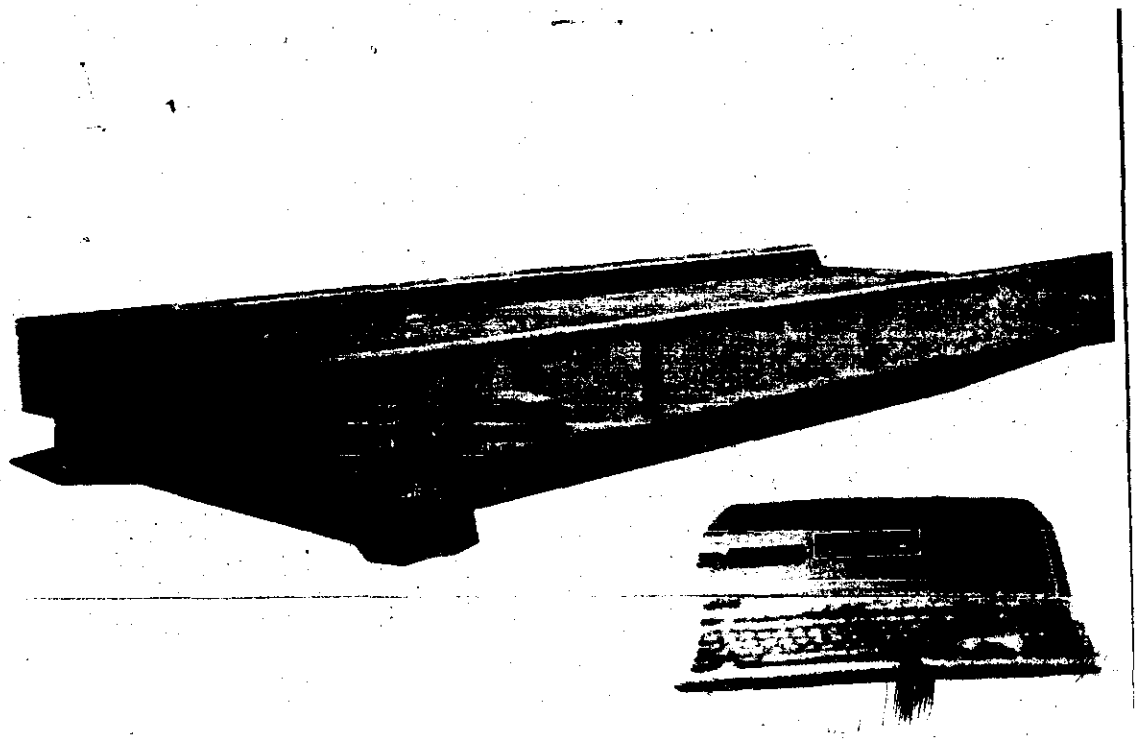
[F. No. WM-21(02)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 21 सितम्बर, 2006

का. आ. 4085.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स नोवा वेह्य इंडस्ट्रीज, नं. 4062/1, स्ट्रीट नं. 1, डोबा रोड, आई टी आई के सामने, गिल रोड, लुधियाना, पंजाब द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एन ई डब्ल्यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (वे ब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम "नोवा टेक" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/363 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गैज प्रकार का भार सेल आधारित अस्वचालित (वेब्रिज प्रकार का) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 100 कि. ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 कि. ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और उक्त माडल को उसकी बिक्री से पूर्व अथवा बाद में सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों के संबंध में परिवर्तित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

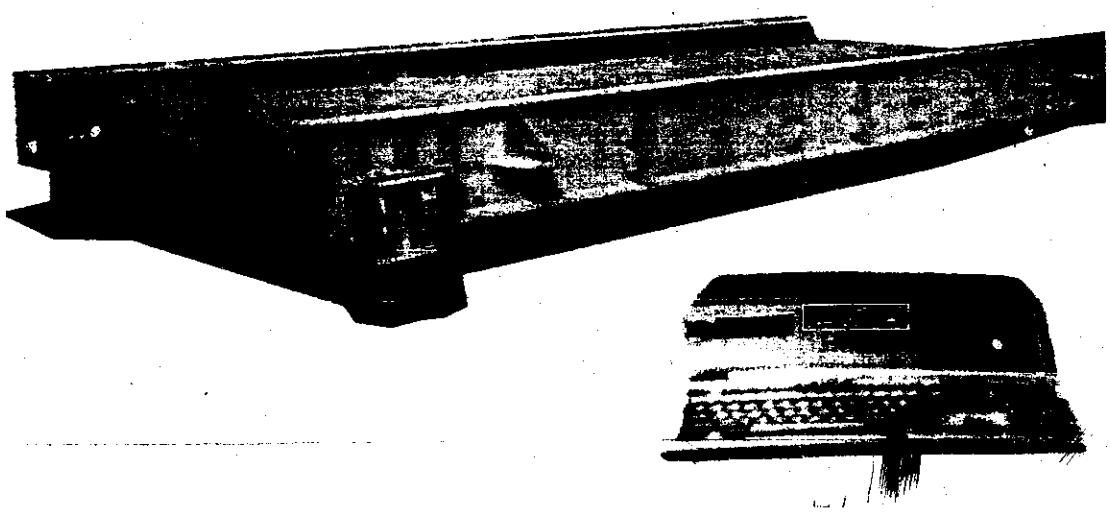
[फा. सं. डब्ल्यू एम-21(103)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 21st September, 2006

S.O. 4085.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic weighing instrument (Weighbridge type) with digital indication of medium accuracy (Accuracy Class-III) of series "NEW" and with brand name "NOVA-TECH" (hereinafter referred to as the said model), manufactured by M/s. Nova Weigh Industries, No. 4062/1, Street No. 1, Daba Road, Opposite ITI, Gill Road, Ludhiana, Punjab and which is assigned the approval mark IND/09/06/363;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Weighbridge type) with a maximum capacity of 30 tonne and minimum capacity of 100 Kg. The verification scale interval (e) is 5 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Doide (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5 kg or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

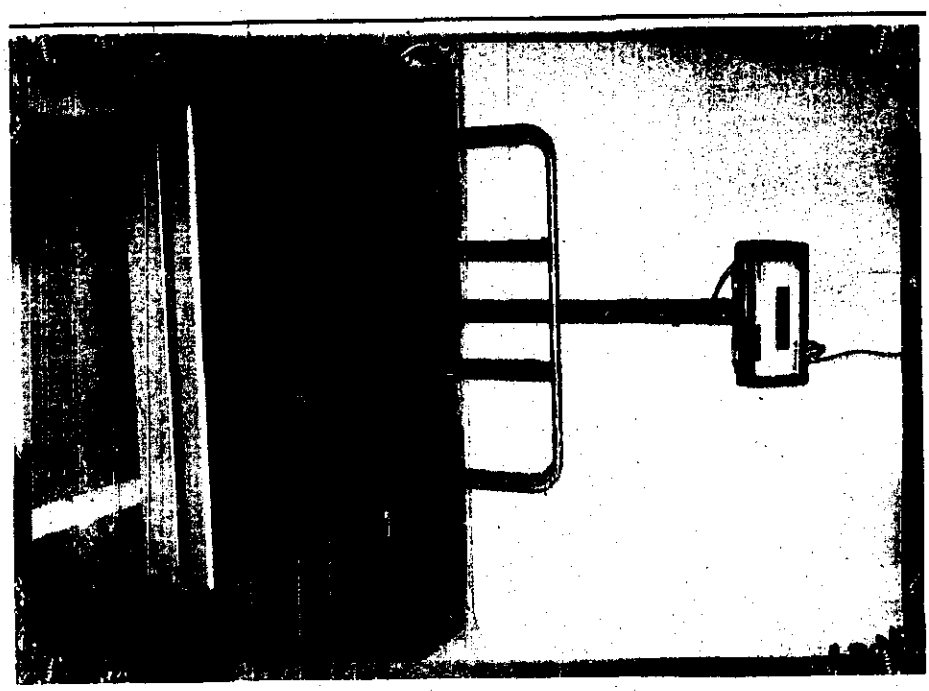
[F. No. WM-21(103)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का. आ. 4086.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेट्रोनिक्स, 172-173, पार्ट-1, एम आई ई, बहादुरगढ़, हरियाणा द्वारा विनिर्मित उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाले "एच ए" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "इलैक्ट्रो" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/06/264 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृत गैज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) है। इसकी अधिकतम क्षमता 2000 कि. ग्रा. है और न्यूनतम क्षमता 5 कि. ग्रा. है। सत्यापन मापमान अन्तराल (ई) 100 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा और मॉडल को इसके सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, वर्किंग सिद्धान्त आदि के रूप में कोई परिवर्तन न किया जा सके।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे उक्त अनुमोदित मॉडल विनिर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 50 किलोग्राम से अधिक और 5000 किलोग्राम तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

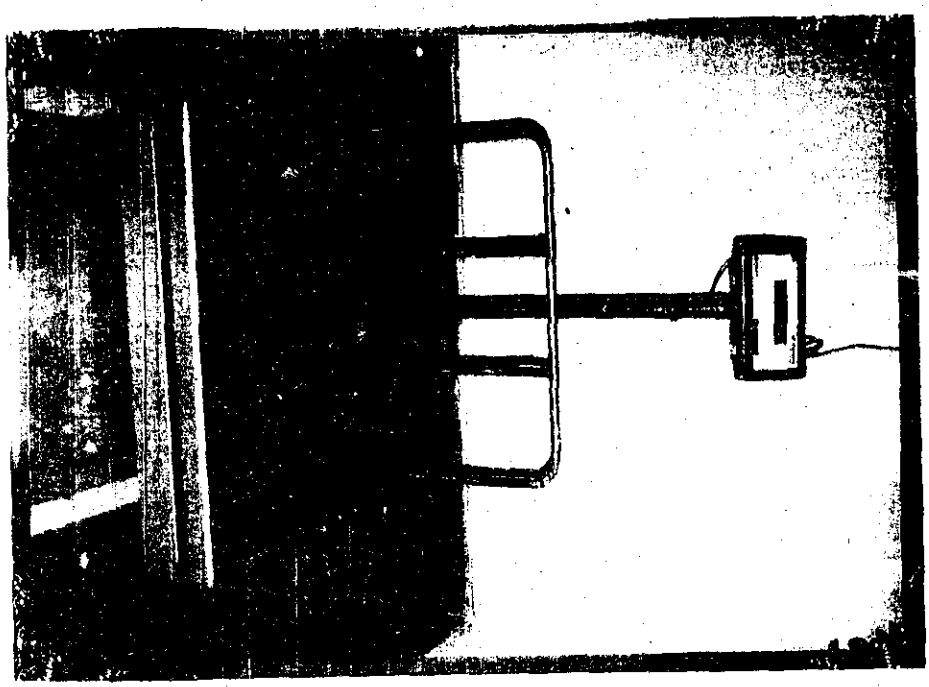
[फा. सं. डब्ल्यू एम-21(24)/2006]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4086.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-Automatic weighing instrument (Platform type) with digital indication of high accuracy (Accuracy Class-II) of series "HA" and with brand name "ELECTRO" (hereinafter referred to as the said model), manufactured by M/s. Weighronics 172-173, Part-I, MIE, Bahadurgarh, Haryana and which is assigned the approval mark IND/09/06/264.



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 2000 kg and minimum capacity of 5 kg. The verification scale interval (e) is 100 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing results. The instrument operates on 230 Volts, 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 50 kg and upto 5000 kg. with verification scale interval (n) in the range of 500 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

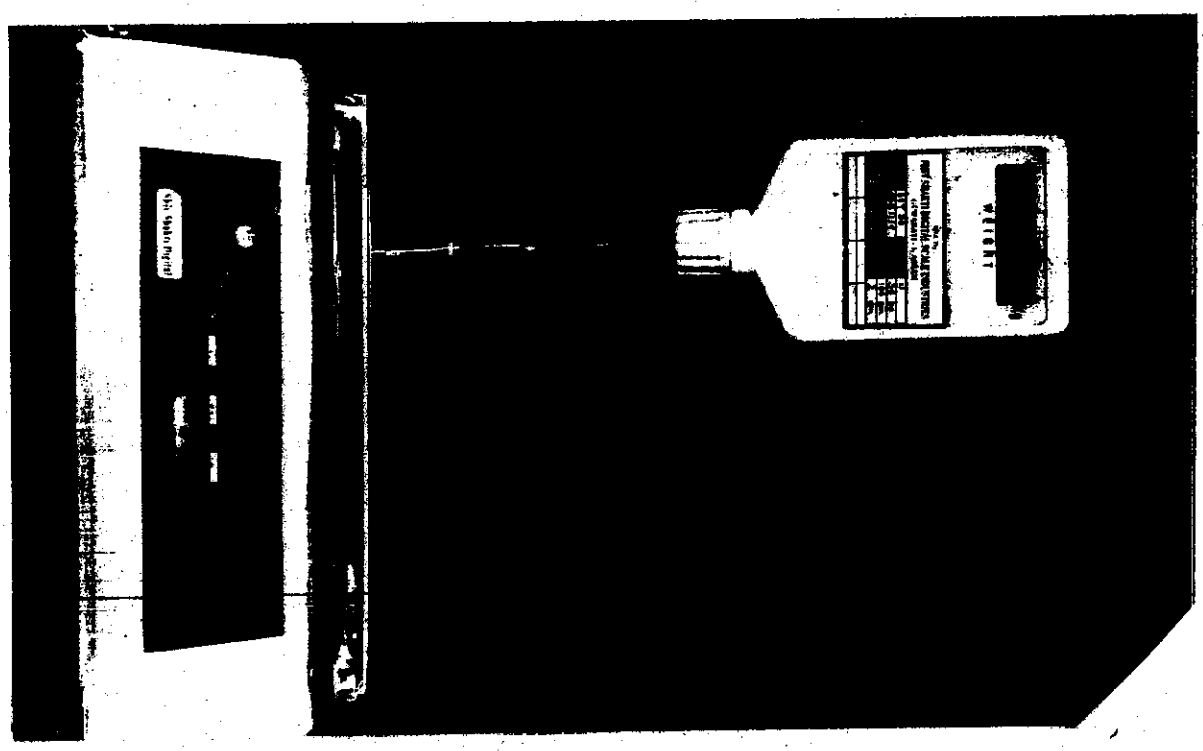
[F. No. WM-21(24)/2006]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का. आ. 4087.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिव शक्ति डीजिटल स्केल इंडस्ट्रीज, 8-ए, धानुका, काम्पलैक्स, अठगांव, गुवाहाटी-781001, असम द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "एस एस टी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "शिव शक्ति" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1098 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित (टेबल टाप प्रकार का) अस्वचालित तोलन उपकरण है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 2 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम निष्पादन सिद्धान्त आदि के की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा ।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाणपत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक "ई" मान के लिए 100 से 50,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान सहित 50 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

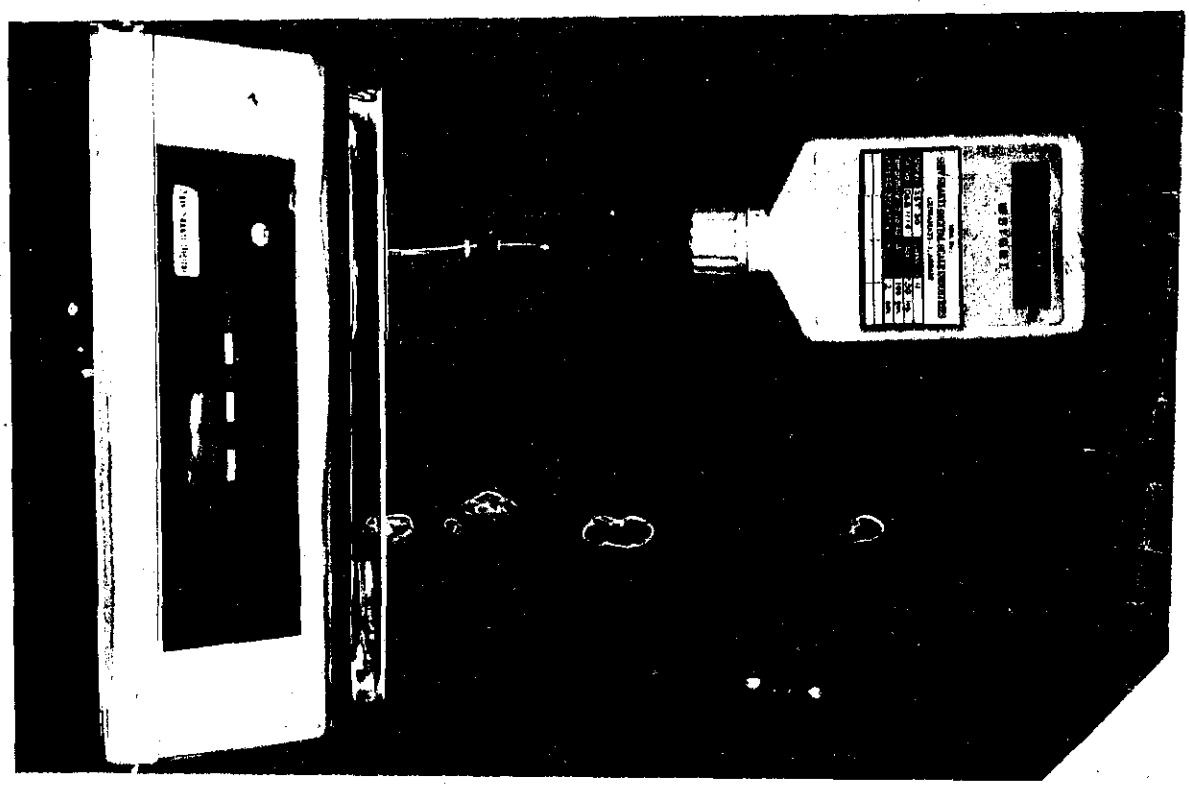
[फा. सं. डब्ल्यू एम-21(171)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4087.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (Table top type) with digital indication of "SST" series of high accuracy (Accuracy Class-II) and with brand name "SHIVSHAKTI" (hereinafter referred to as the said Model), manufactured by M/s. Shiv Shakti Digital Scale Industries, 8-A, Dhanuka Complex, Athgaon, Guwahati-781 001, Assam and which is assigned the approval mark IND/09/05/1098;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Tabletop type) with a maximum capacity of 30 kg and minimum capacity of 100 g. The verification scale interval (e) is 2 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Doide (LED) indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply;

In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instruments of similar make and performance of same series with maximum capacity upto 50 kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1 mg to 50 mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100 mg or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or negative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

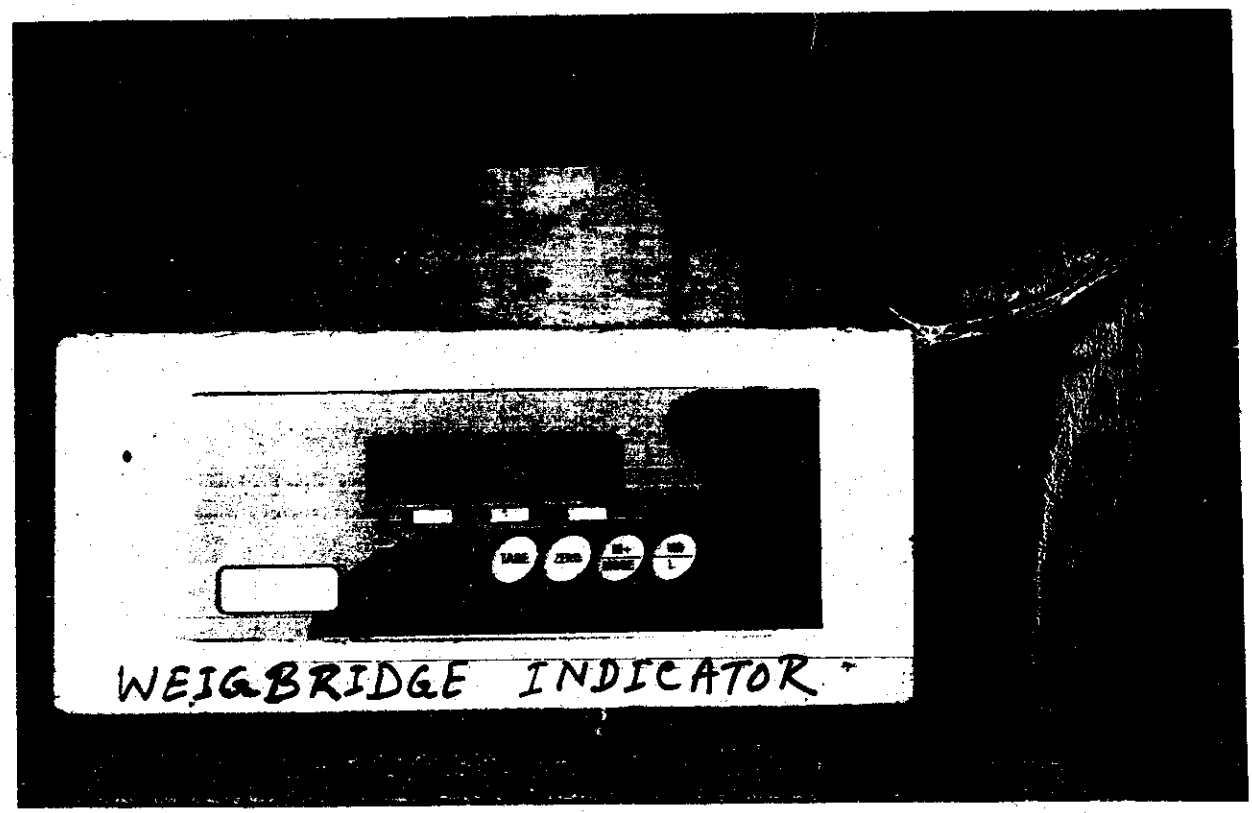
[F. No. WM-21(171)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का. आ. 4088.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिव शक्ति डीजिटल स्केल इंडस्ट्रीज 8-ए, धानुका, काम्पलैक्स, अठगांव, गुवाहाटी-781001, असम द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "एस एस डब्ल्यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (वेब्रिज के लिए कंवर्शन किट) के मॉडल का, जिसके ब्रांड का नाम "शिव शक्ति" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1100 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है;



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित हाई ब्रिड प्रकार का अस्वचालित (वेब्रिज के लिए कंवर्शन किट) तोलन उपकरण है। इसकी अधिकतम क्षमता 30 टन और न्यूनतम क्षमता 200 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 10 कि. ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री से पूर्व अथवा बाद में सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तन नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि. ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है ।

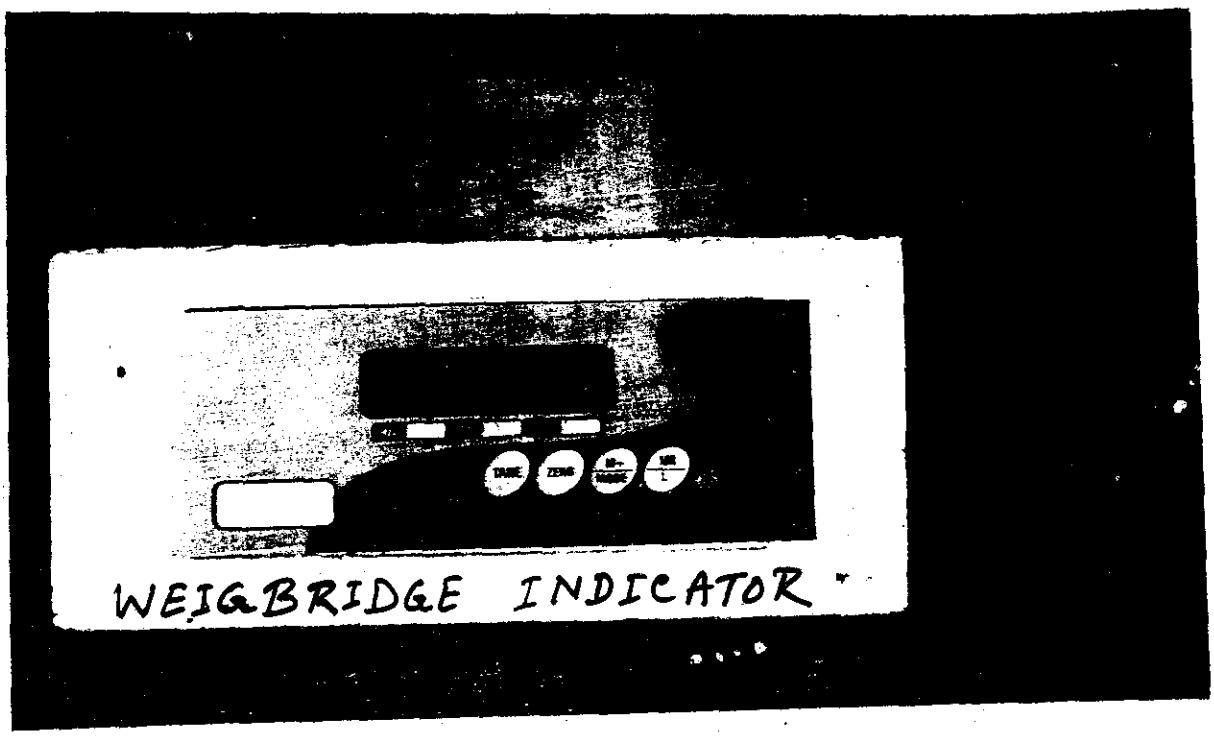
[फा. सं. डब्ल्यू एम-21(171)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4088.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of hybrid type non-automatic weighing instrument (conversion kit for weighbridge) with digital indication of "SSW" series of medium accuracy (Accuracy class-III)"SHIVSHAKTI" (hereinafter referred to as the said Model), manufactured by M/s. Shiv Shakti Digital Scale Industries, 8-A, Dhanuka Complex, Athgaon, Guwahati-781001, Assam and which is assigned the approval mark IND/09/05/1100;



The said Model is a strain gauge type load cell based hybrid type non-automatic weighing instrument (conversion kit for weighbridge) with a maximum capacity of 30 tonne and minimum capacity of 200kg. The verification scale interval (e) is 10 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sales.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make accuracy and performance of same series with maximum capacity above 5 tonne and upto 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg or more and with 'e' value 1×10^k, 2×10^k or 5×10^k, where k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

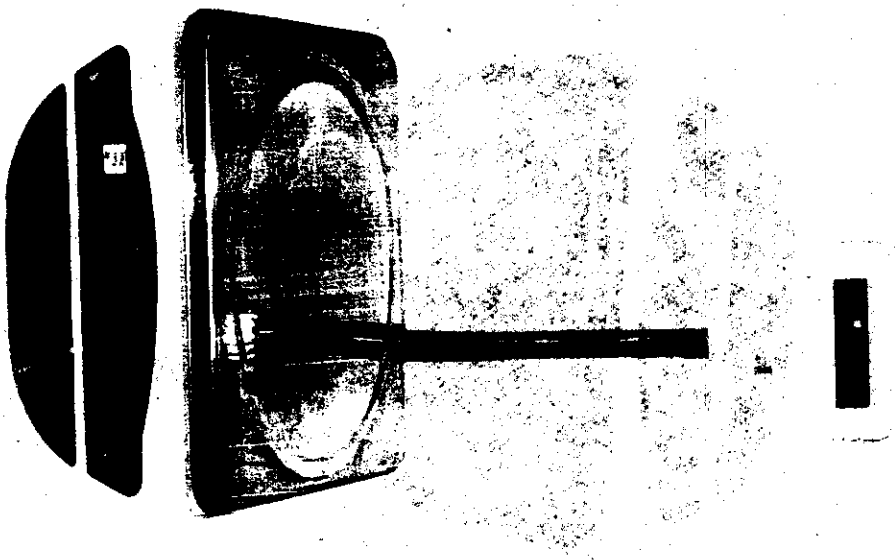
[F. No. WM-21(171)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का.आ. 4089.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जे बी सी कारपोरेशन, 155, मिलाप नगर, टोंक रोड, जयपुर-302018, राजस्थान द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग III) वाले "जे बी सी एच" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "जे बी सी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/451 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित (टेबल टाप प्रकार का) अस्वचालित तोलन उपकरण है । इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिसमें अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक के रेंज में सत्यापन मान सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

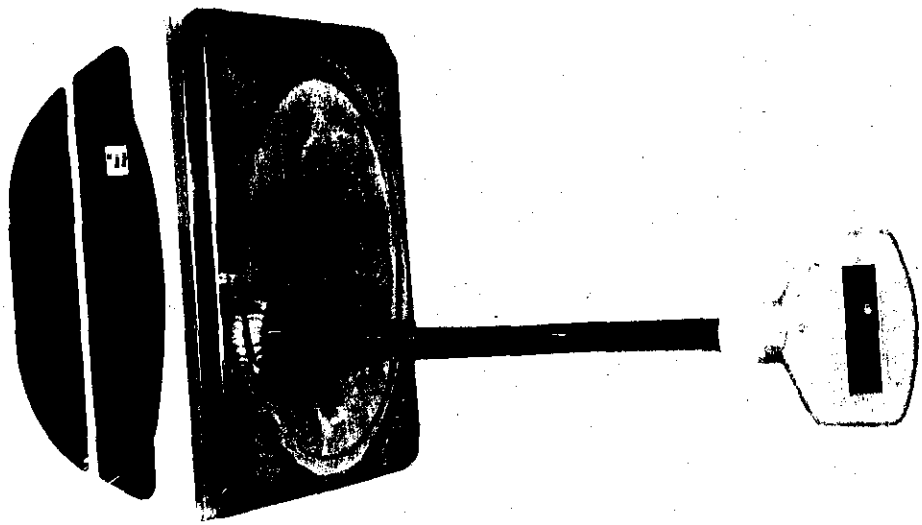
[फा. सं. डब्ल्यू एम-21(104)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4089.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic (Table top type) weighing instrument with digital indication of "JBCH" series of medium accuracy (Accuracy class-III) and with brand name "JBC" (hereinafter referred to as the said model), manufactured by M/s. J. B. C. Corporation, 155, Milap Nagar, Tonk Road, Jaipur-302018, Rajasthan and which is assigned the approval mark IND/09/05/451.



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 5 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts 50 Hertz alternative current power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and Model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle, etc. before or after sales.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity upto 50 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100 mg to 2g. or with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

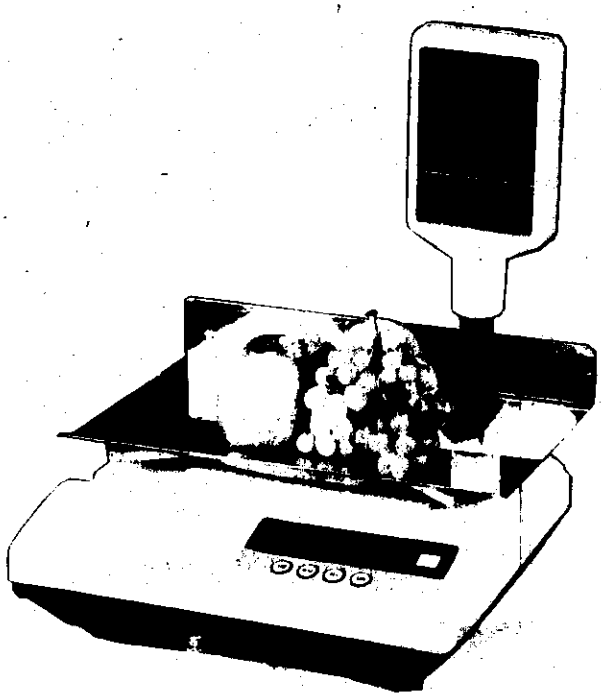
[F. No. WM-21(104)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का. आ. 4090.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जे बी सी कारपोरेशन, 155, मिलाप नगर, टोंक रोड, जयपुर-302018 राजस्थान द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग II) वाले "जे बी सी टी" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (टेबल टाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "जे बी सी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/450 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित (टेबल टाप प्रकार का) अस्वचालित तोलन उपकरण है । इसकी अधिकतम क्षमता 30 कि.ग्रा. और न्यूनतम क्षमता 100 ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 2 ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 1 मि. ग्रा. से 50 मि. ग्रा. तक "ई" मान के लिए 100 से 5,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 100 मि. ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

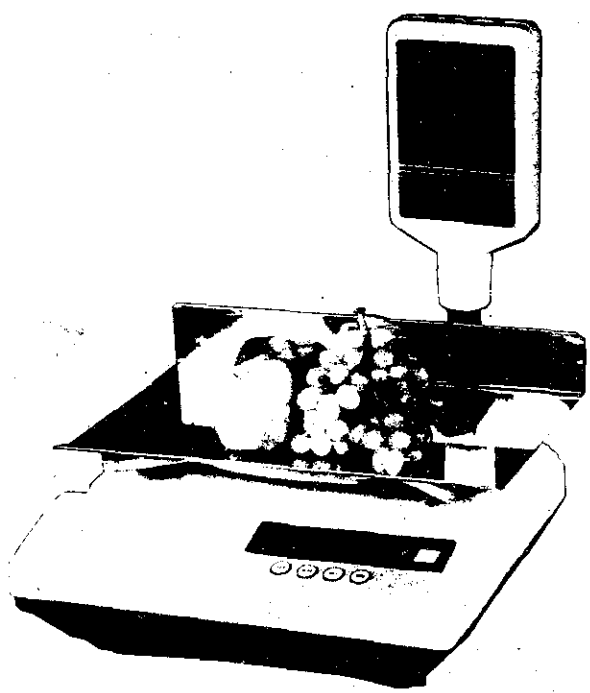
[फा. सं. डब्ल्यू एम-21(104)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4090.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Tabletop type) with digital indication of "JBCT" series of high accuracy (Accuracy class-II) and with brand name "JBC" (hereinafter referred to as the said model), manufactured by M/s. J. B. C. Corporation, 155, Milap Nagar, Tonk Road, Jaipur-302018, Rajasthan and which is assigned the approval mark IND/09/05/450;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg and minimum capacity of 100g. The verification scale interval (e) is 2 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent the opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make and performance of same series with maximum capacity upto 50 kg and with number of verification scale interval (n) in the range of 100 to 50,000 for 'e' value of 1mg to 50mg and with number of verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 100mg or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

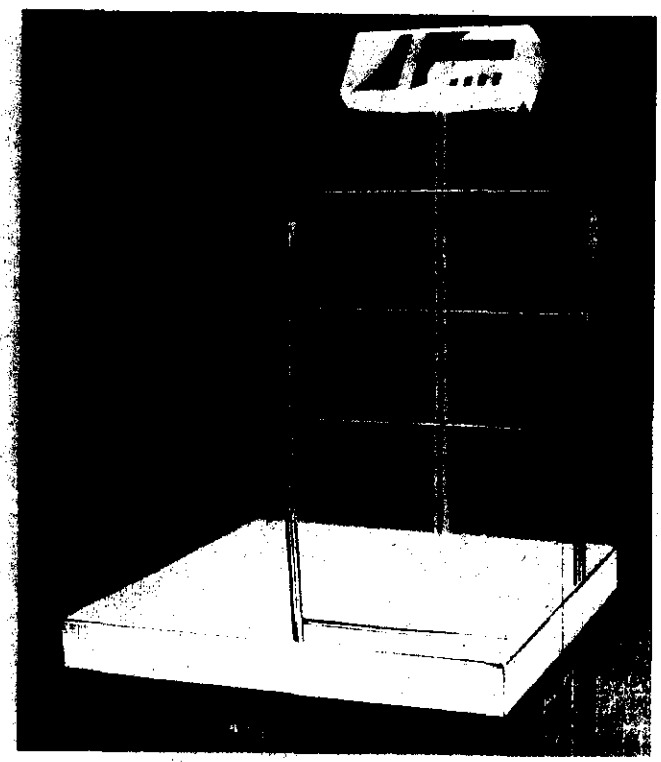
[F. No. WM-21(104)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का. आ. 4091.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स जे बी सी कारपोरेशन, 155, मिलाप नगर, टोंक रोड, जयपुर-302018 राजस्थान द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "जे बी सी पी" शृंखला के अंकक सूचन सहित स्वतःसूचक अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "जे बी सी" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/452 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित तोलन उपकरण है । इसकी अधिकतम क्षमता 500 कि.ग्रा. और न्यूनतम क्षमता 2 कि. ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 100 ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव हैं । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा और मॉडल को बिक्री से पहले या बाद में उसकी सामग्री, यथार्थता, डिजाइन, सर्किट डायग्राम, निष्पादन सिद्धान्त आदि की शर्तों पर परिवर्तित/परिवर्धित नहीं किया जाएगा।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान सहित 50 कि.ग्रा. से 1000 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

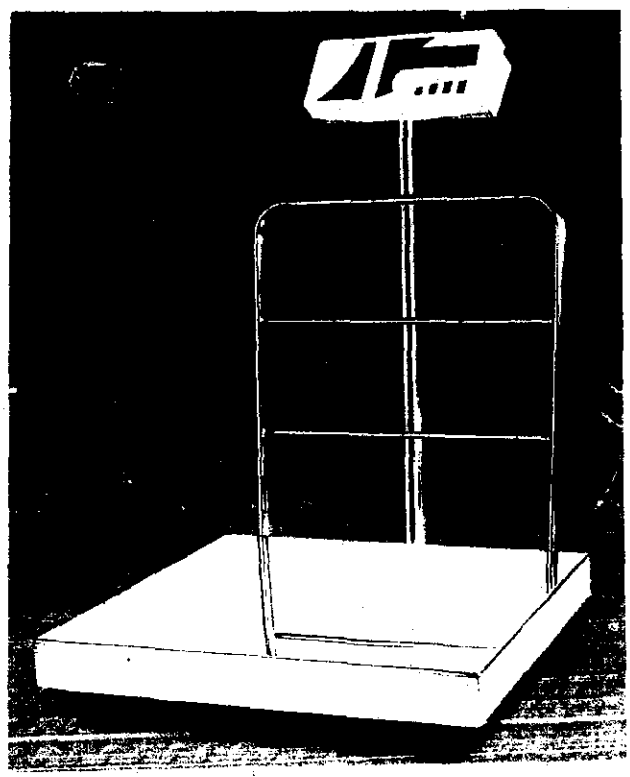
[फा. सं. डब्ल्यू एम-21(104)/2005]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4091.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self indicating, non-automatic, (Platform type) weighing instrument with digital indication of "JBCP" series of medium accuracy (Accuracy class-III) and with brand name "JBC" (hereinafter referred to as the said model), manufactured by M/s. J. B. C. Corporation, 155, Milap Nagar, Tonk Road, Jaipur-302018, Rajasthan and which is assigned the approval mark IND/09/05/452;



The said Model is a strain gauge type load cell based weighing instrument with a maximum capacity of 500 kg. and minimum capacity of 2kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate sealing shall also be done to prevent opening of the machine for fraudulent practices and model shall not be changed in terms of its material, accuracy, design, circuit diagram, working principle etc. before or after sale.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of same series with maximum capacity above 50kg. and up to 1000kg. and with number of verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or negative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved Model has been manufactured.

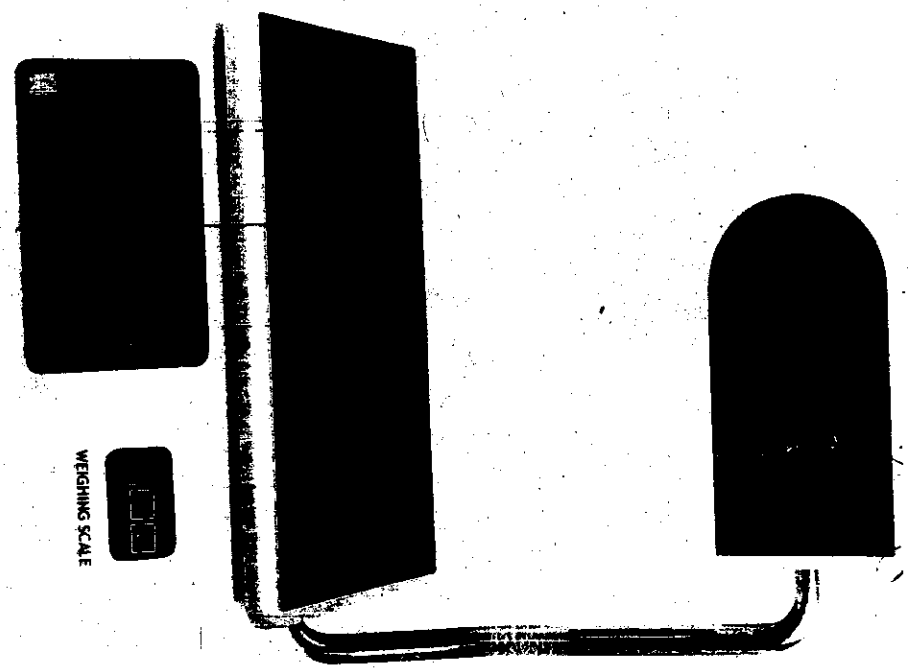
[F. No. WM-21(104)/2005]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का. आ. 4092.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अत:, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेराइट सिस्टम्स, आर जेड 9/48, स्ट्रीट सं. 12, तुगलकाबाद एक्सटेंशन, नई दिल्ली-110019 द्वारा निर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "डब्ल्यू" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वेराइट" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/19 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ;



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (टेबलटाप प्रकार का) है। इसकी अधिकतम क्षमता 30 कि. ग्रा. और न्यूनतम क्षमता 100 ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टॉपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा ।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि. ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

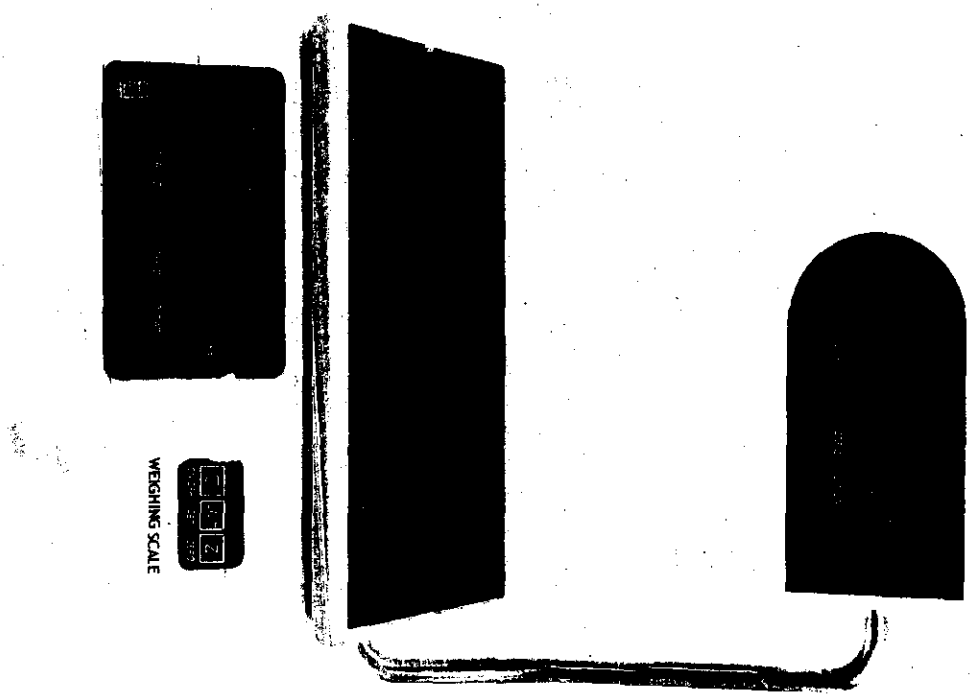
[फा. सं. डब्ल्यू एम-21(101)/2004]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4092.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (Table top type) with digital indication of "W" series of medium accuracy (Accuracy class-III) and with brand name "WEYRITE" (hereinafter referred to as the said model), manufactured by M/s. Weyrite System, RZ 9/48, Street No. 12, Tughlakabad Extn., New Delhi-110019 and which is assigned the approval mark IND/09/05/19;



The said Model is a strain gauge type load cell based non-automatic weighing instrument (Table top type) with a maximum capacity of 30 kg. and minimum capacity of 100g. The verification scale interval (e) is 5 g. It has a tare device with a 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts, 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity up to 50kg. with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg. to 2g. and with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, where k is a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principles, design and with the same materials with which, the said approved Model has been manufactured.

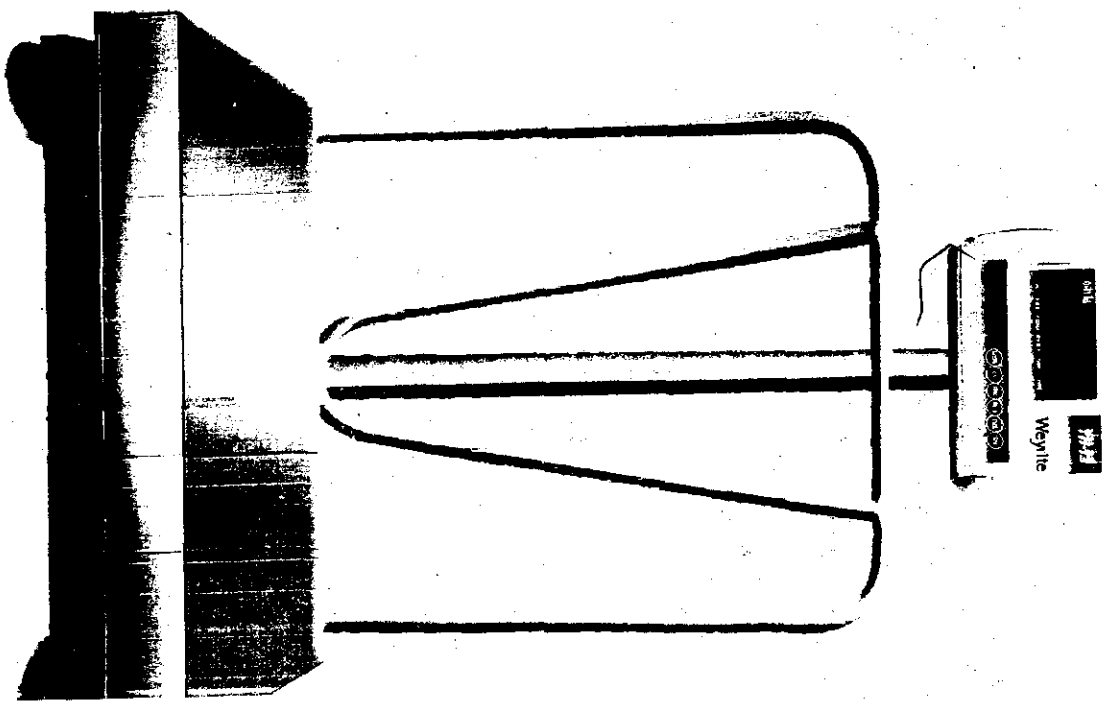
[F. No. WM-21(101)/2004]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 29 सितम्बर, 2006

का.आ. 4093.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अत: अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स वेराइट सिस्टम्स, आर जेड 9/48, स्ट्रीट सं. 12, तुगलकाबाद एक्सटेंशन, नई दिल्ली-110019 द्वारा निर्मित मध्यम यथार्थता वर्ग (यथार्थता वर्ग-III) वाले "डब्ल्यू" शृंखला के अंकक सूचन सहित, अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार) के मॉडल का, जिसके ब्रांड का नाम "वेराइट" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/18 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ;



उक्त मॉडल एक विकृत गेज प्रकार का भार सेल आधारित अस्वचालित तोलन उपकरण (प्लेटफार्म प्रकार का) है। इसकी अधिकतम क्षमता 300 कि.ग्रा. और न्यूनतम क्षमता 1 कि. ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 50 ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है। प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ।

स्टांपिंग प्लेट के मुद्रांकन के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोलने से रोकने के लिए सीलबन्द भी किया जाएगा ।

और केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से, जिससे उक्त अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 100 मि.ग्रा. से 2 ग्रा. तक "ई" मान के लिए 100 से 10,000 तक के रेंज में सत्यापन मापमान अंतराल (एन) और 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में मापमान (एन) अंतराल सहित 50 कि.ग्रा. से अधिक और 1000 कि. ग्रा. तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

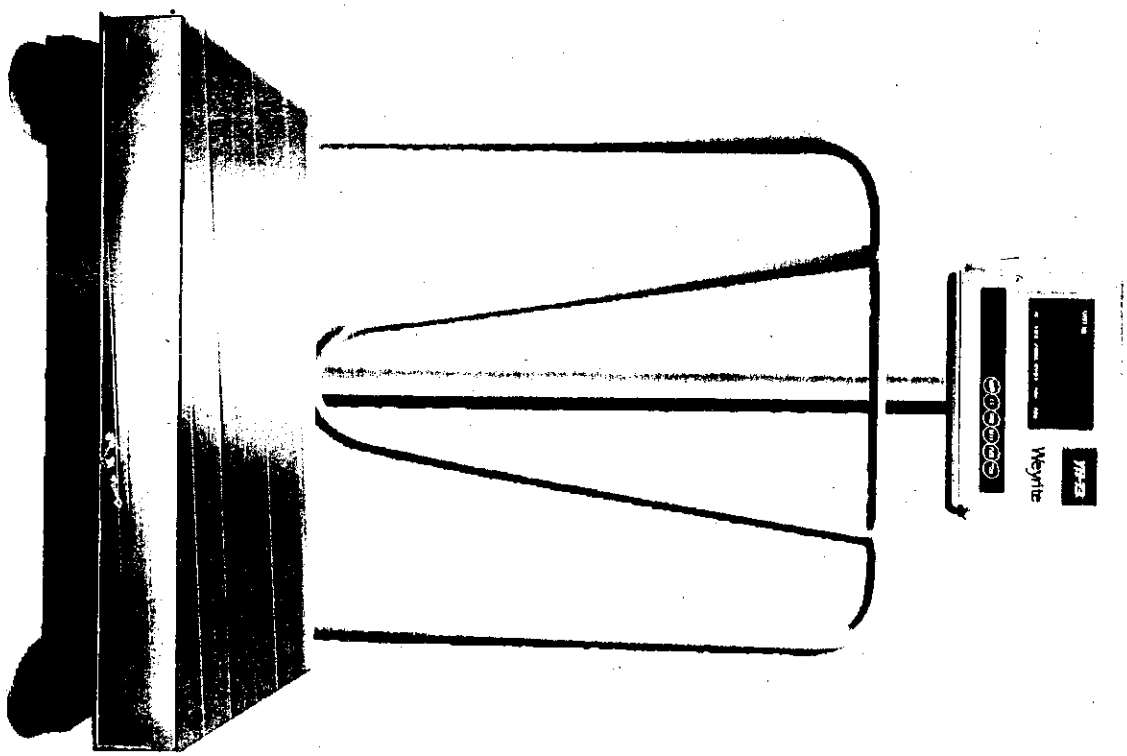
[फा. सं. डब्ल्यू एम-21(101)/2004]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 29th September, 2006

S.O. 4093.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of the non-automatic weighing instrument (Platform type) with digital indication of "W" series of medium accuracy (Accuracy class-III) and with brand name "WEYRITE" (hereinafter referred to as the said model), manufactured by M/s. Weyrite System, RZ-9/48, Street No. 12, Tughlakabad Extn., New Delhi-110019 and which is assigned the approval mark IND/09/05/18;



The said model is a strain gauge type load cell based non-automatic weighing instrument (Platform type) with a maximum capacity of 300 kg and minimum capacity of 1kg. The verification scale interval (e) is 50 g. It has a tare device with a 100 percent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instruments operates on 230 Volts 50 Hertz alternative current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 50kg and up to 1000 kg with verification scale interval (n) in the range of 100 to 10,000 for 'e' value of 100mg to 2g and with the verification interval (n) in the range of 500 to 10,000 for 'e' value of 5 g or more and with 'e' value 1×10^k, 2×10^k or 5×10^k, k being a positive or negative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

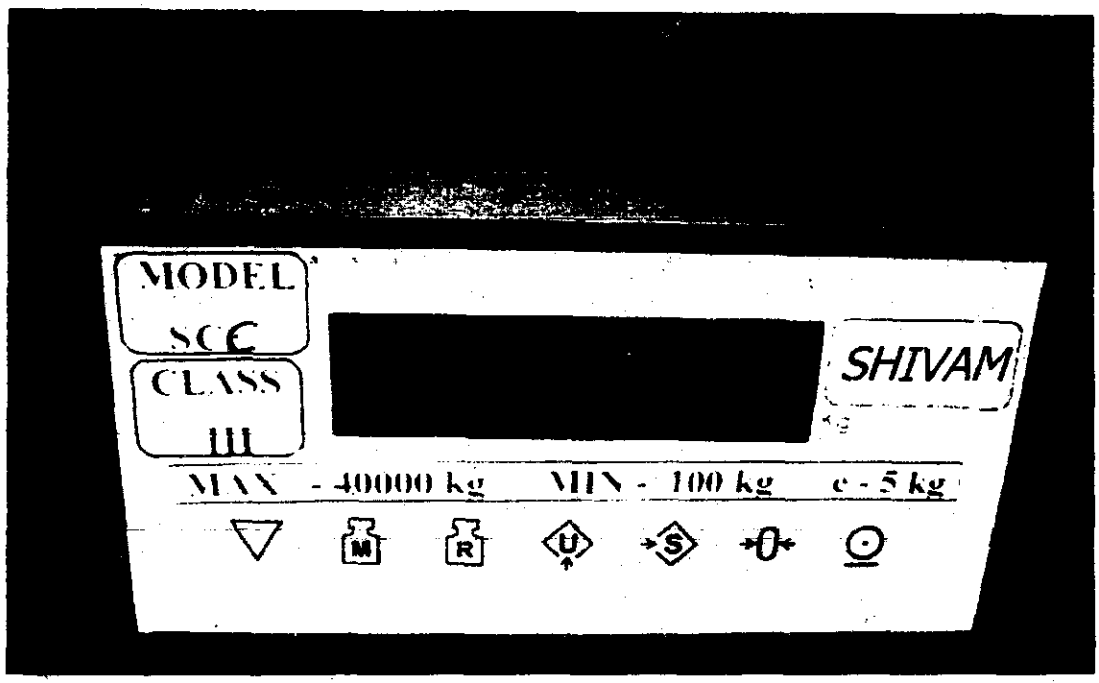
[F. No. WM-21(101)/2004]

R. MATHURBOTHAM, Director of Legal Metrology

नई दिल्ली, 3 अक्तूबर, 2006

का.आ. 4094.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिवम वेइंग एण्ड इंजीनियरिंग कम्पनी, जी आई डी सी, प्लाट नं. 57, हिम्मत नगर-383001, जिला साबरकण्ठा, गुजरात द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस सी सी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (वे ब्रिज के लिए कन्वर्शन किट) के मॉडल का, जिसके ब्रांड का नाम "शिवम" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1011 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ;



उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (वे ब्रिज के लिए कन्वर्शन किट प्रकार का) तोलन उपकरण है । इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 100 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांम्पिग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा ।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(260)/2002]

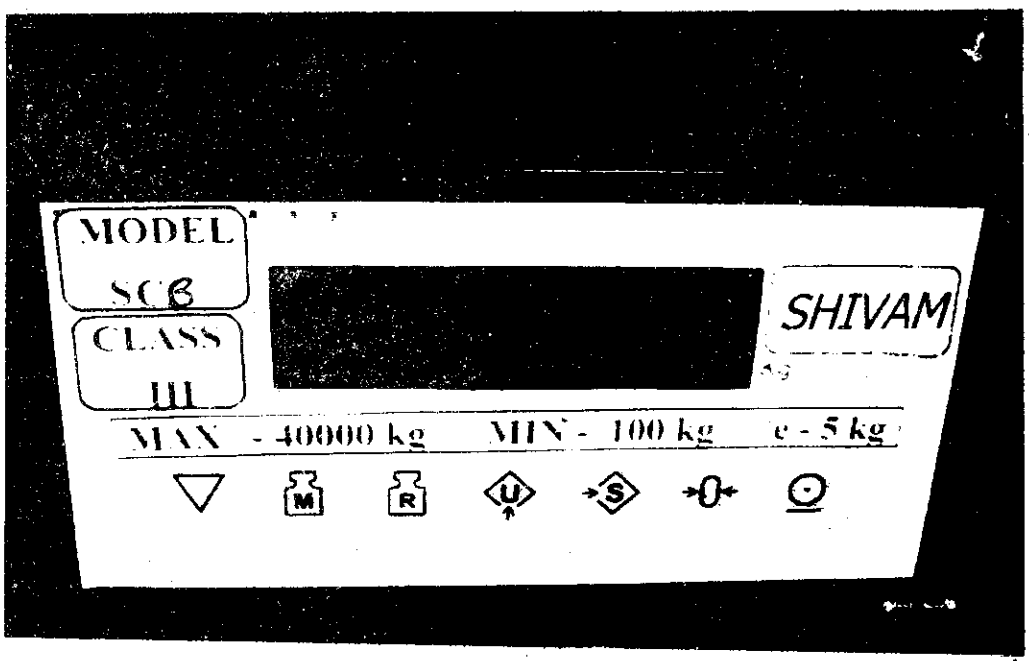
आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 3rd October, 2006

S.O. 4094.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the Model of non-automatic weighing instrument (conversion kit for weighbridge) with digital indication belonging to medium accuracy (Accuracy class III) of "SCC" series with brand name "SHIVAM" (herein referred to as the said Model), manufactured by M/s. Shivam Weighing & Engineering Co., G.I.D.C. Plot No. 57, Himmat Nagar-383 001, Dist. Sabarkantha, Gujarat and which is assigned the approval mark IND/09/05/1011;

The said Model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (conversion kit for weighbridge) with a maximum capacity of 40 tonne and minimum capacity of 100 kg. The verification scale interval (e) is 5 kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instruments operates on 230 Volts, and 50 Hertz alternate current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and upto 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or nagative whole number or equal to zero, manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved Model have been manufactured.

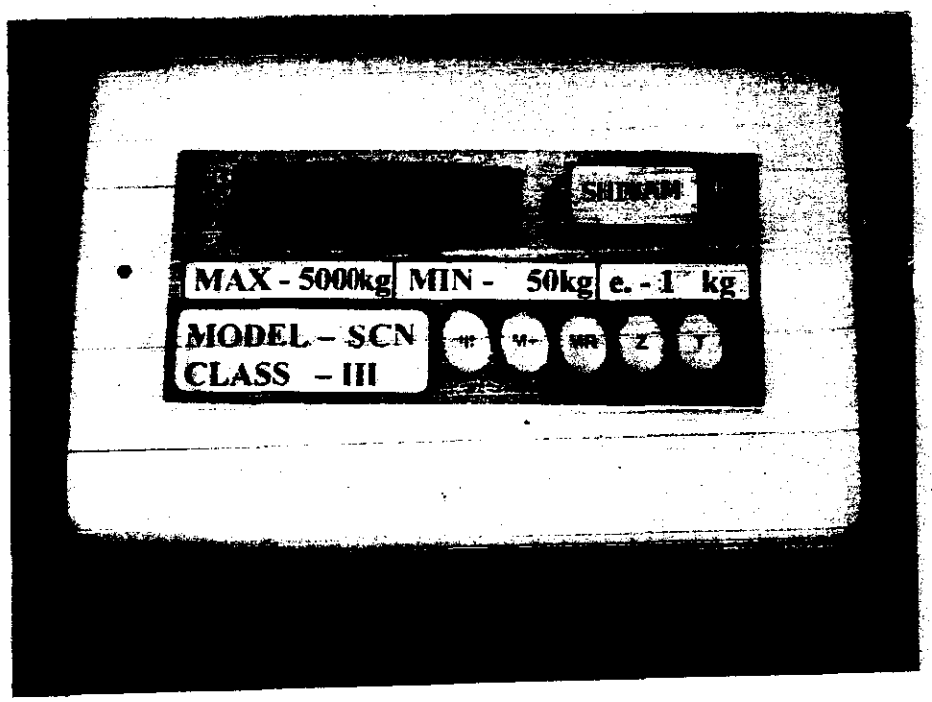
[F. No. WM-21(260)/2002]

R. MATHURBOOTHAM, Director of Legal Metrology

नई दिल्ली, 3 अक्तूबर, 2006

का.आ. 4095.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिवम वेइंग एण्ड इंजीनियरिंग कम्पनी, जी आई डी सी, प्लाट नं. 57, हिम्मत नगर-383001, जिला साबरकण्ठा, गुजरात द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस सी एन" शृंखला के अंकक सूचना सहित अस्वचालित स्वतःसूचक तोलन उपकरण (क्रेन प्रकार) के मॉडल का, जिसके ब्रांड का नाम "शिवम" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1013 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ।



उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित तोलन उपकरण है । इसकी अधिकतम क्षमता 1000 कि.ग्रा. और न्यूनतम क्षमता 4 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 200 ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट, और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ।

स्टॉम्पिग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए सीलबन्द भी किया जाएगा ।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मापमान अंतराल (एन) सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

[फा. सं. डब्ल्यू एम-21(260)/2002]

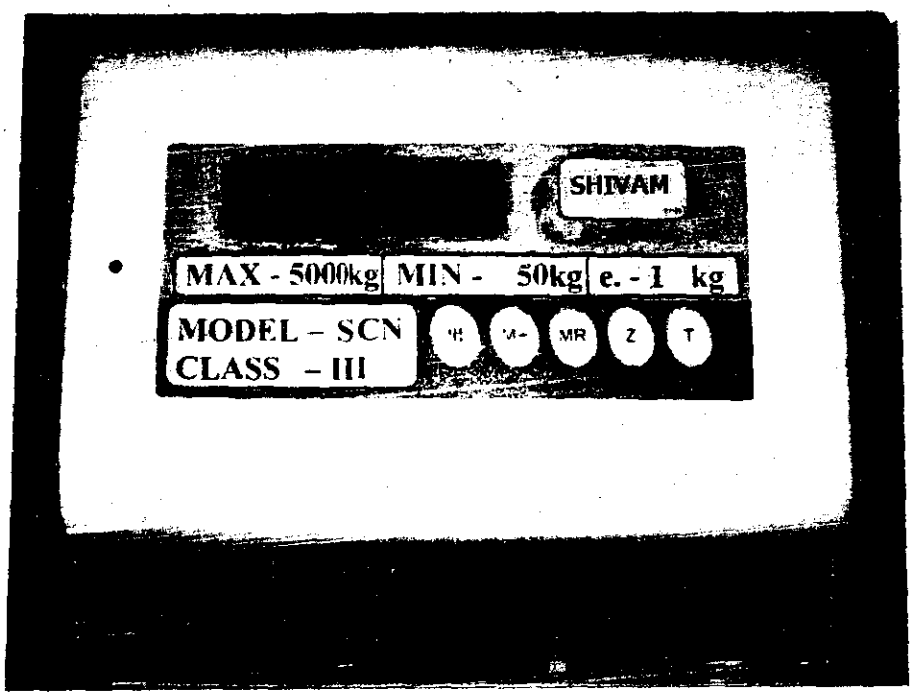
आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 3rd October, 2006

S.O. 4095.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of the self indicating, non-automatic (Crane type) weighing instrument with digital indication of "SCN" series of medium accuracy (Accuracy class III) and with brand name "SHIVAM" (herein referred to as the said model), manufactured by M/s. Shivam Weighing & Engineering Co., G.I.D.C. Plot No. 57, Himmat Nagar-383 001, Dist. Sabarkantha, Gujarat and which is assigned the approval mark IND/09/05/1013;

The said model (see the figure given below) is a strain gauge type load cell based weighing instrument with a maximum capacity of 1000kg. and minimum capacity of 4kg. The verification scale interval (e) is 200g. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instruments operates on 230 Volts, and 50 Hertz alternate current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of same series with maximum capacity above 500kg. and up to 500kg. with number verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5g. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or nagative whole number or equal to zero manufactured by the same manufacturer with the same principle, design and with the same materials with which, the said approved model has been manufactured.

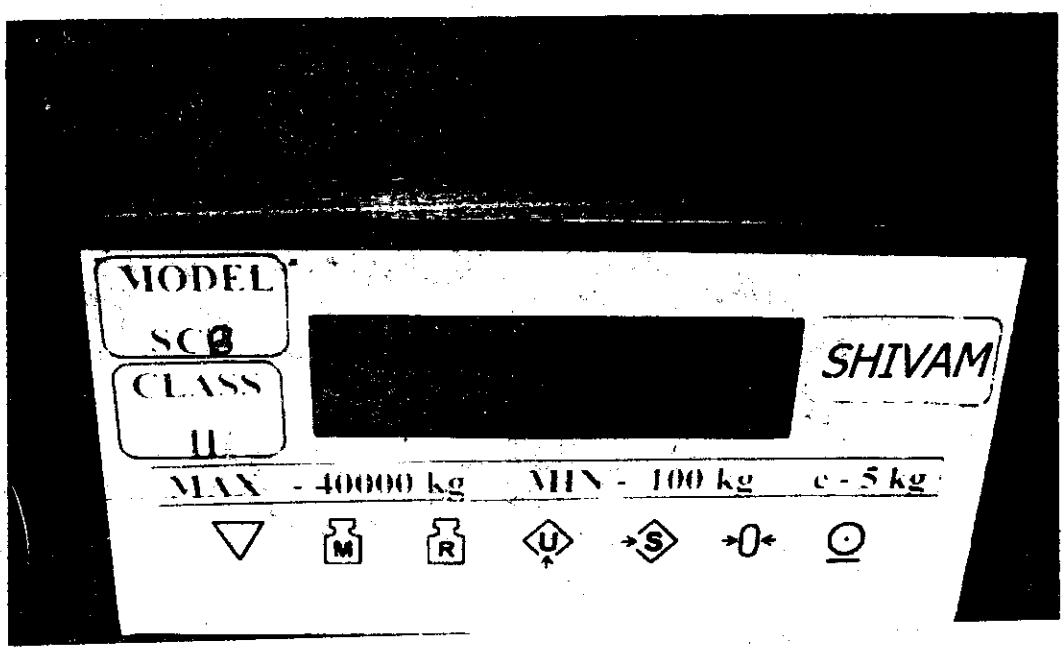
[F. No. WM-21(260)/2002]

R. MATHURBHOOTAM, Director of Legal Metrology

नई दिल्ली, 3 अक्तूबर, 2006

का. आ. 4096.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिवम वेइंग एण्ड इंजीनियरिंग कम्पनी, जी आई डी सी, प्लाट नं. 57, हिम्मत नगर-383001, जिला साबरकण्ठा, गुजरात द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एस सी बी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (वे ब्रिज के लिए कन्वर्शन किट) के मॉडल का, जिसके ब्रांड का नाम "शिवम" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1012 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (वे ब्रिज के लिए कन्वर्शन किट प्रकार का) तोलन उपकरण है । इसकी अधिकतम क्षमता 60 टन और न्यूनतम क्षमता 250 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट, 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है ।

स्टाम्पिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए सीलबन्द भी किया जाएगा ।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "ई" मान के लिए 5000 से 50,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं ।

[फा. सं. डब्ल्यू एम-21(260)/2002]

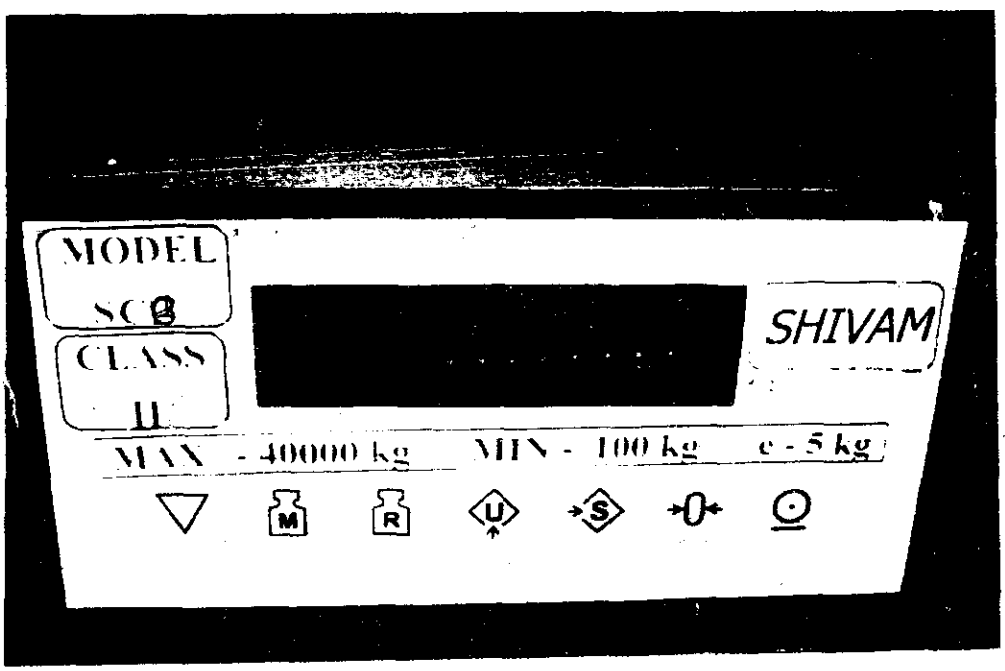
आर. माथूरबुथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 3rd October, 2006

S.O. 4096.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (conversion kit for weighbridge) with digital indication of belonging to high accuracy (Accuracy class II) of "SCB" series with brand name "SHIVAM" (herein referred to as the said model), manufactured by M/s. Shivam Weighing & Engineering Co., G.I.D.C. Plot No. 57, Himmat Nagar-383 001, Dist. Sabarkantha, Gujarat and which is assigned the approval mark IND/09/05/1012;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (conversion kit for weighbridge) with a maximum capacity of 60 tonne and minimum capacity of 250kg. The verification scale interval (e) is 5kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instruments operates on 230 Volts, and 50 Hertz alternate current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 100 tonne with verification scale interval (n) in the range of 5000 to 50,000 for 'e' value of 5 kg. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being a positive or nagative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

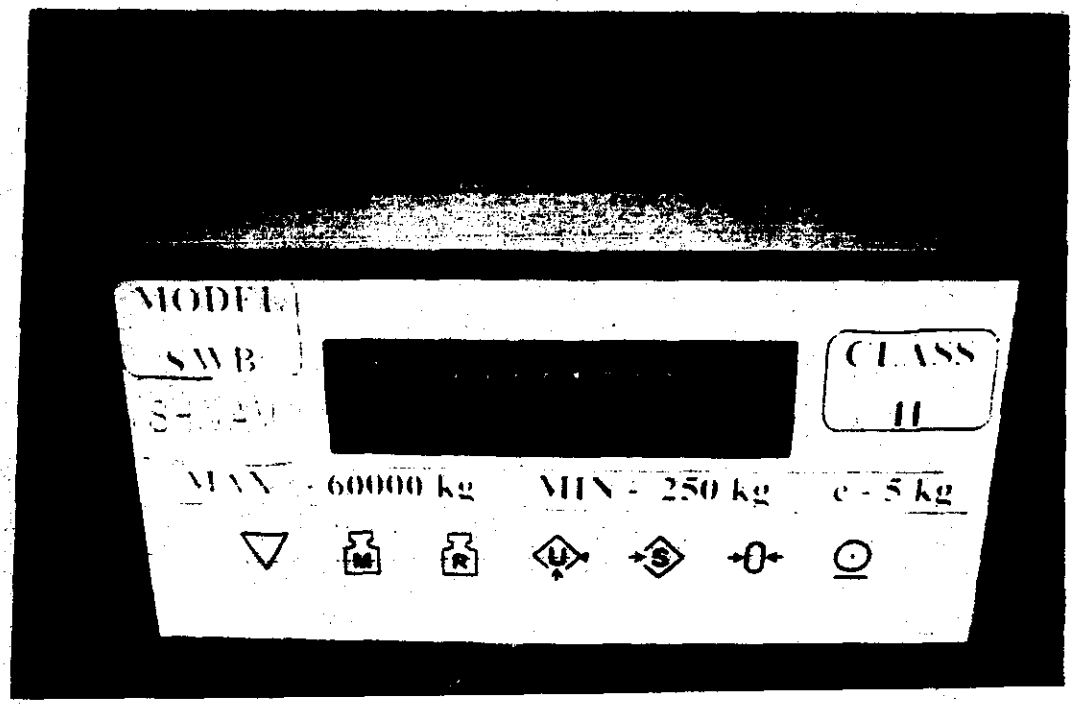
[F. No. WM-21(260)/2002]

R. MATHURBHOTAM, Director of Legal Metrology

नई दिल्ली, 3 अक्तूबर, 2006

का. आ. 4097.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिवम वेइंग एण्ड इंजीनियरिंग कम्पनी, जी आई डी सी, प्लाट नं. 57, हिम्मत नगर-383001, जिला साबरकण्ठा, गुजरात द्वारा विनिर्मित उच्च यथार्थता (यथार्थता वर्ग-II) वाले "एस डब्ल्यू बी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (वे ब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम "शिवम" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1009 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ।



उक्त मॉडल एक विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (वे ब्रिज प्रकार का) तोलन उपकरण है । इसकी अधिकतम क्षमता 60 टन और न्यूनतम क्षमता 250 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है । इसमें एक आध यतुलन युक्ति है जिसका शत प्रतिशत व्यवकलनात्मक धारित आधेयतुलन प्रभाव है । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टाम्पिंग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा ।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान $1\times10^{*}$, $2\times10^{*}$ या $5\times10^{*}$, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

[फा. सं. डब्ल्यू एम-21(260)/2002]

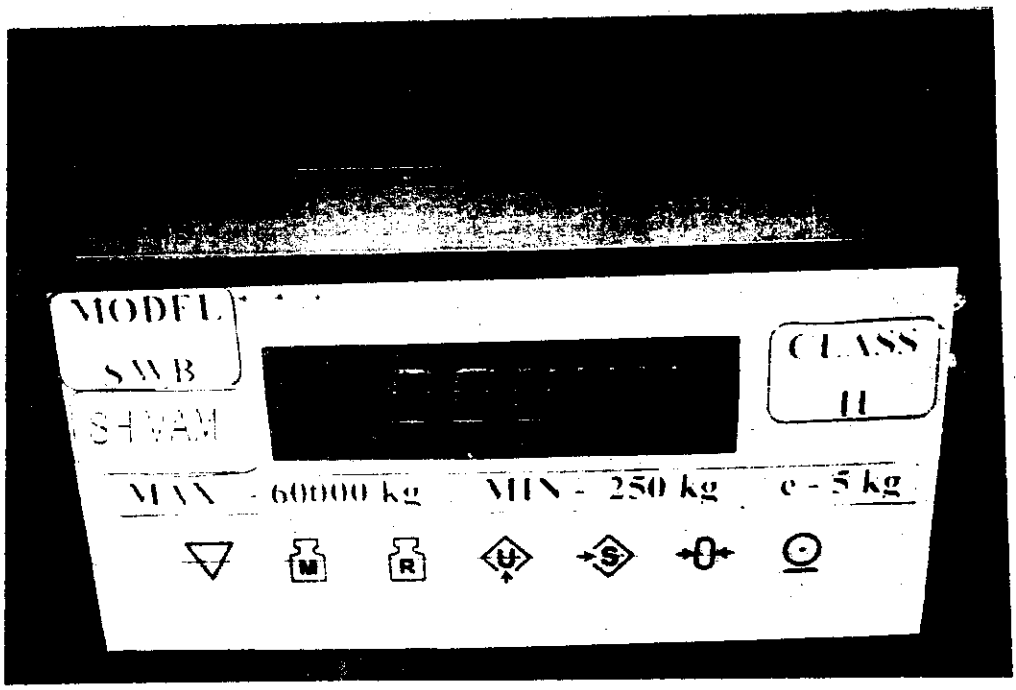
आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 3rd October, 2006

S.O. 4097.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (weighbridge type) with digital indication belonging to high accuracy (Accuracy class II) of "SWB" series with brand name "SHIVAM" (herein referred to as the said model), manufactured by M/s. Shivam Weighing & Engineering Co., G.I.D.C., Plot No. 57, Himmat Nagar-383 001, Distt. Sabrkantha, Gujarat and which is assigned the approval mark IND/09/05/1009;

The said model (see the figure given below) is a strain gauge type load cell based non-automatic weighing instrument (weighbridge) with a maximum capacity of 60 tonne and minimum capacity of 250kg. The verification scale interval (e) is 5kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.



In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 100 tonne with verification scale interval (n) in the range of 5,000 to 50,000 for 'e' value of 5 kg. or more and with 'e' value of 1×10^k, 2×10^k or 5×10^k, k being the positive or nagative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

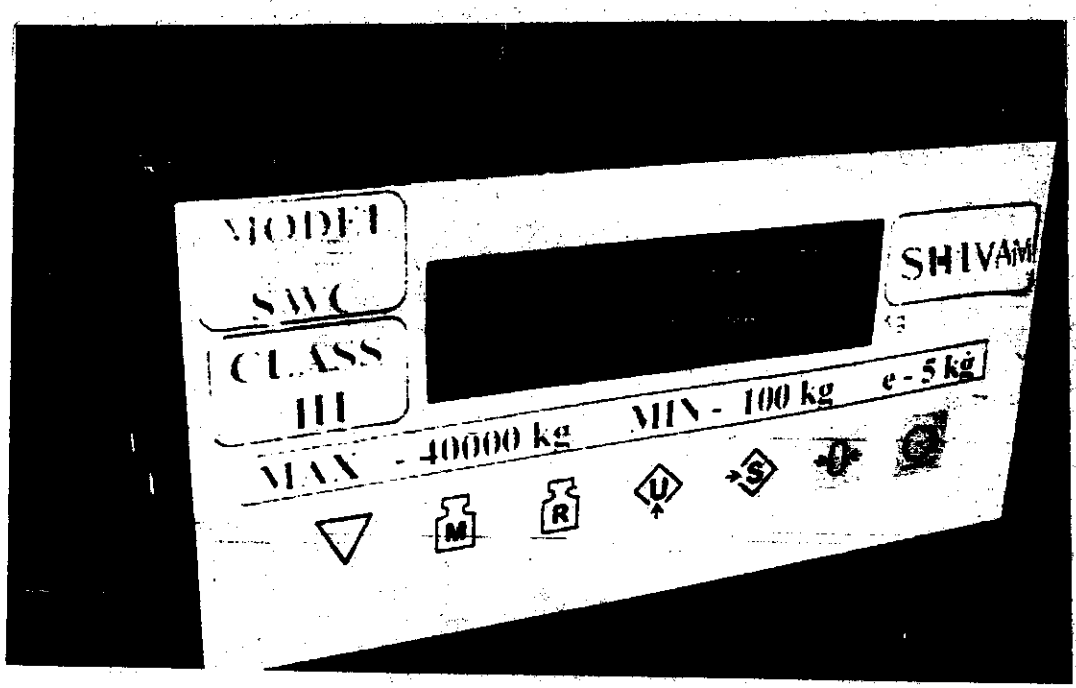
[F. No. WM-21(260)/2002]

R. MATHURBHOOTAM, Director of Legal Metrology

नई दिल्ली, 3 अक्तूबर, 2006

का. आ. 4098.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) तथा बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा प्रदान करता रहेगा;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (7) और (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स शिवम वेइंग एण्ड इंजीनियरिंग कम्पनी, जी आई डी सी, प्लाट नं. 57, हिम्मत नगर-383001, जिला साबरकण्ठा, गुजरात द्वारा विनिर्मित मध्यम यथार्थता (यथार्थता वर्ग-III) वाले "एस डब्ल्यू सी" शृंखला के अंकक सूचन सहित अस्वचालित तोलन उपकरण (वे ब्रिज प्रकार) के मॉडल का, जिसके ब्रांड का नाम "शिवम" है (जिसे इसमें इसके पश्चात् उक्त मॉडल कहा गया है) और जिसे अनुमोदन चिह्न आई एन डी/09/05/1010 समनुदेशित किया गया है, अनुमोदन प्रमाण-पत्र जारी और प्रकाशित करती है ।



उक्त मॉडल विकृति गेज प्रकार का भार सेल आधारित अस्वचालित (वे ब्रिज प्रकार का) तोलन उपकरण है । इसकी अधिकतम क्षमता 40 टन और न्यूनतम क्षमता 100 कि.ग्रा. है । सत्यापन मापमान अन्तराल (ई) का मान 5 कि.ग्रा. है । इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है । प्रकाश उत्सर्जक डायोड (एल ई डी) प्रदर्श परिणाम उपदर्शित करता है । उपकरण 230 वोल्ट और 50 हर्ट्ज प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

स्टांम्पिग प्लेट को सील करने के अतिरिक्त मशीन को कपटपूर्ण व्यवहारों के लिए खोले जाने से रोकने के लिए भी सीलबन्द किया जाएगा ।

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उप-धारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त मॉडल के अनुमोदन के इस प्रमाण-पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित मॉडल का निर्माण किया गया है, विनिर्मित उसी शृंखला के वैसे ही मेक, यथार्थता और कार्यपालन के तोलन उपकरण भी होंगे जो 5 कि.ग्रा. या उससे अधिक के "ई" मान के लिए 500 से 10,000 तक की रेंज में सत्यापन मान (एन) अंतराल सहित 5 टन से अधिक और 100 टन तक की अधिकतम क्षमता वाले हैं और "ई" मान 1×10^{k}, 2×10^{k} या 5×10^{k}, के हैं, जो धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य हैं।

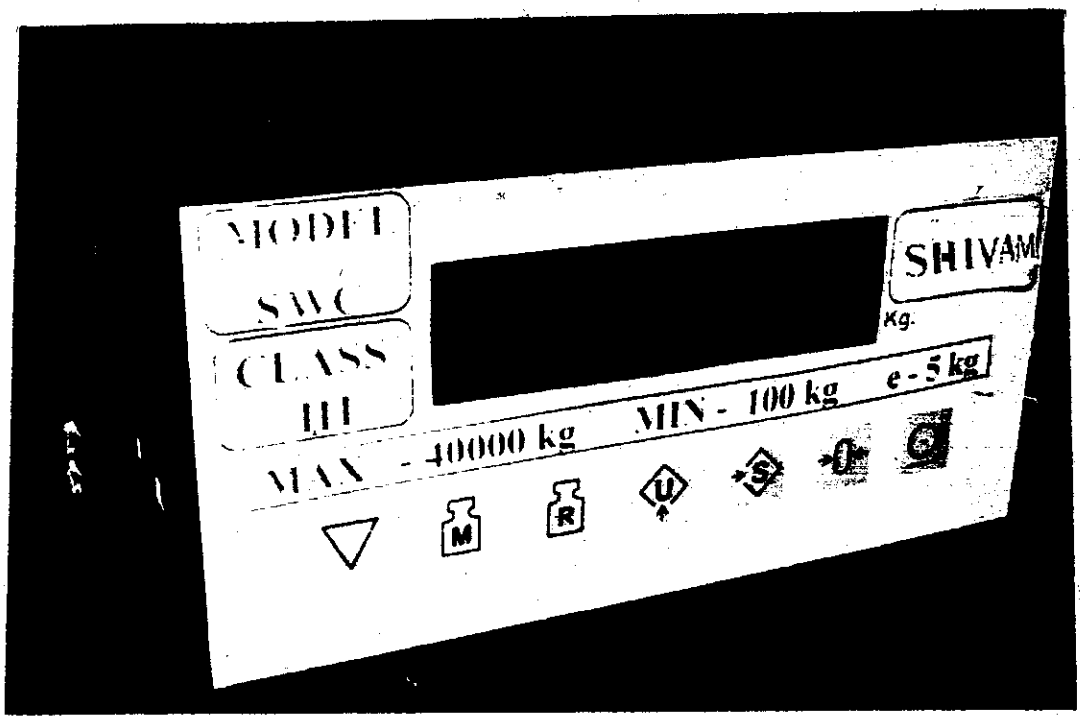
[फा. सं. डब्ल्यू एम-21(260)/2002]

आर. माथुरबूथम, निदेशक, विधिक माप विज्ञान

New Delhi, the 3rd October, 2006

S.O. 4098.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain its accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by Sub-sections (7) and (8) of Section 36 of the said Act, the Central Government hereby issues and publishes the certificate of approval of the model of non-automatic weighing instrument (weighbridge type) with digital indication of belonging to medium accuracy (Accuracy class III) of "SWC" series with brand name "SHIVAM" (herein referred to as the said model), manufactured by M/s. Shivam Weighing & Engineering Co., G.I.D.C. Plot No. 57, Himmat Nagar-383 001, Distt. Sabrkantha, Gujarat and which is assigned the approval mark IND/09/05/1010;



The said model (see the figure given above) is a strain gauge type load cell based non-automatic weighing instrument (weighbridge type) with a maximum capacity of 40 tonne and minimum capacity of 100kg. The verification scale interval (e) is 5kg. It has a tare device with 100 per cent subtractive retained tare effect. The Light Emitting Diode (LED) display indicates the weighing result. The instrument operates on 230 Volts and 50 Hertz alternate current power supply.

In addition to sealing the stamping plate, sealing shall also be done to prevent the opening of the machine for fraudulent practices.

Further, in exercise of the powers conferred by Sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with maximum capacity above 5 tonne and up to 100 tonne with verification scale interval (n) in the range of 500 to 10,000 for 'e' value of 5kg. or more and with 'e' value 1×10^k, 2×10^k or 5×10^k, k being a positive or nagative whole number or equal to zero manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the said approved model has been manufactured.

[F. No. WM-21(260)/2002]

R. MATHURBHOOTHAM, Director of Legal Metrology

भारतीय मानक ब्यूरो

नई दिल्ली, 3 अक्तूबर, 2006

का. आ. 4099.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद् द्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक (कों) की संख्या और वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 600127-5 : 1998। लघु प्यूज-लिंक के गुणता मूल्यांकन की मार्गदर्शिका	—	31 अगस्त, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरों, मानक भवन 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ ईटी 39/टी-26]

पी. के. मुखर्जी, वैज्ञा. 'एफ' एवं प्रमुख (विद्युत तकनीकी)

BUREAU OF INDIAN STANDARDS

New Delhi, the 3rd October, 2006

S. O. 4099.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Indian standards, if any, Superseded by the New Indian Standards	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 60127-5 : (1998) Miniature Fuses Part 5 Guidelines for quality assessment of Miniature Fuse-Links	—	31th August, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. ET 39/T-26]

P. K. MUKHERJEE, Sc. 'F' & Head (Electrotechnical)

नई दिल्ली, 5 अक्तूबर, 2006

का. आ. 4100.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 10204 : 2001	संशोधन संख्या 4, सितम्बर 2006	28 सितम्बर, 2006

इन संशोधनो की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ सीईडी/राजपत्र]

ए.के. सैनी, वैज्ञा. 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 5th October, 2006

S. O. 4100.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendement	Date from which the amendment shall have effect
1.	IS 10204 : 2001	Amendment No. 4, September, 2006	28th September, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. CED/Gazette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

नई दिल्ली, 5 अक्तूबर, 2006

का. आ. 4101.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
1.	आई एस 7231 : 1994	4, सितम्बर, 2006	28 सितम्बर, 2006

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञा. 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 5th October, 2006

S. O. 4101.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amadment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standareds	No. and year of the amendment	Date from which the amendment shall have effect
1.	IS 7231 : 1994	4, September, 2006	28th September, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards. Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. CED/Gazette]

A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

नई दिल्ली, 6 अक्तूबर, 2006

का. आ. 4102.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
1.	आई एस 2171 : 1999	संशोधन संख्या 5, सितम्बर 2006	5 अक्तूबर, 2006

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध है ।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञा. 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 6th October, 2006

S. O. 4102.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian standards	No. and year of the amendement	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 2171 : 1999	Amendment No. 5, September, 2006	5th October, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. CED/Gazette]
A. K. SAINI, Sc. 'F' & Head (Civil Engg.)

नई दिल्ली, 10 अक्तूबर, 2006

का. आ. 4103.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(को) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधान की संख्या और तिथि	संशोधन लागू होने की तिथि
1.	आई एस 5517 : 1993—कठोरण एवं पायनन के लिए इस्पात—विशिष्टि (दूसरा पुनरीक्षण)	संशोधन संख्या 1, अगस्त 1999 आइ एस 5517 : 1993	12-09-2006
		संशोधन संख्या 2, अगस्त 2006 आइ एस 5517 : 1993	12-09-2006

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : एमटीडी 16/टी-6]
पी. घोष, निदेशक एवं प्रमुख (एमटीडी)

New Delhi, the 10th October, 2006

S. O. 4103.—In pursuance of clause (b) of sub-rule (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
1.	IS 5517 : 1993 Steel for hardening and tempering — Specification - (Second Revision)	Amendment No. 1, August 1999 to IS 5517 : 1993	12-09-2006
		Amendment No. 2 August, 2006 to IS 5517 : 1993	12-09-2006

Copy of this Standard is available for sale with the Bureau of Indian Standards. Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. MTD 16/T-6]
P. GHOSH, Director & Head (MTD)

नई दिल्ली, 11 अक्तूबर, 2006

का. आ. 4104.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
1.	आई एस 15382 (पार्ट 31) : 2006 निम्न-वोल्टेज प्रणालियों के उपकरण के लिए उष्मारोधन समन्वय भाग 3 प्रदूषण से सुरक्षा के लिए लेपन, पॉटिंग अथवा संचारन का उपयोग	—	31 अगस्त 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं ।

[संदर्भ : ईटी 14/टी-16]

पी. के. मुखर्जी, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 11th October, 2006

S. O. 4104.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standard	No. & year of the Indian Standards, if any Standard, superseded by the New Indian	Date of Established
1.	IS 15382 (Part 3) 2006 Insulation coordination for equipment within low-voltage systems Part 3 use of coating, potting or moulding for protection against pollution	—	31 August, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. ET 14/T-16]

P. K. MUKHERJEE, Sc. 'F'. & Head (Electrotechnical)

नई दिल्ली, 12 अक्तूबर, 2006

का. आ. 4105.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्र.सं	लाइसेंस संख्या	वैधता	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भामा संख्या	भाग अनु	वर्ष संख्या
1		2	3	4	5		
1.	7633983	16 07 2007	टाइम हेल्थ प्रोडक्टस प्राइवेट लि., 58 एबी, गवर्हमेंट इंडस्ट्रियल इस्टेट, चारकोप कांदवली (पश्चिम) मुम्बई 400067	पैकेज बंद पेयजल	14543		2004
2.	7633680	13 07 2007	मारू केमिकल इण्डस्ट्रीज, प्लॉट संख्या 36-37, को-आपरेटिव इस्टेट इस्ट, सायणे (बी के) मालेगांव, जिला नासिक, महाराष्ट्र 423203	ईरिगेशन इक्यूप्मेंट-ईमिटर्स	13487		1992
3.	7631171	06 07 2007	जय पॉलीट्रप इंडस्ट्रीज प्लॉट संख्या 15, सर्वे संख्या 46/1-पी, दमणगंगा इंडस्ट्रियल इस्टेट अथल, सिल्वासा	टेक्सटाईल्स-टारपोलिन्स उच्च दाब पोलिथेलिन वुवन फेब्रिक्स	7903		2005
4.	7636484	23 07 2007	श्रद्धा फूड एंड मिनरल 22-सी, एमआईडीसी, अंबड, नासिक 422005	पैकेज बंद पेयजल	14543		2004

1		2	3	4	5	
5.	7632173	11 07 2007	मारू केमिकल इण्डस्ट्रीज प्लॉट संख्या 36-37, को-आपरेटिव इंडस्ट्रियल इस्टेट, सायणे (बीके) मालेगांव, जिला नासिक, महाराष्ट्र 423 203	ईरिगेशन इक्यूप्मेंट-पीपी ईरिगंशन	12786	1989

[संदर्भ : सीएमडी-1/13:11]

एस. के. चौधरी, उप महानिदेशक (मुहर)

New Delhi, the 12th October, 2006

S. O. 4105.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and Address (factory) of the Party	Product	IS No./Part/ Sec Year
1.	7633983	16/07/2007	Time Health products Pvt. Ltd., 58AB, Government Industrial Estate, Charkop, Kandivali W, Mumbai 400067	Packaged drinking water (other than Packaged Natural Mineral Water) - Specification	14543 : 2004
2.	7633680	13/07/2007	Maru Chemical Industries Plot No. 36-37 Cooperative, Indl. Estate, Sayane (BK) Nashik, Malegaon 423203	Irrigation Equipment-Emitters—Specification	13487 : 1992
3.	7631171	06/07/2007	Jay Polytarp Industries Plot No. 15, Survey No. 46/1-P, Damanganga Indl. Estate, Athal, Silvassa	Textiles—Tarpaulins made from high density polyethylene woven fabric—Specification	7903 : 2005
4.	7636484	23/07/2007	Shraddha Food & Minerals 22-C, MIDC Nashik, Ambad 422005	Packaged drinking water (other than packaged Natural Mineral Water)—Specification	14543 : 2004
5.	7632173	11/07/2007	Maru Chemical Industries Plot No. 36-37 Cooperative Indl. Estate, Sayane (BK) Nashik, Malegaon 423203	Irrigation Equipment-PP for Irrigation Laterals-Specification	12786 : 1989

[Ref. : CMD-1/13 : 11]

S. K. CHAUDHURY, Dy. Director General

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 13 अक्तूबर, 2006

का. आ. 4106.—केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में तारीख 14 जनवरी, 2006 को भारत के राजपत्र में प्रकाशित, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 154 तारीख 13 जनवरी, 2006 में निम्नलिखित रूप से संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में, "श्री पृथ्वी सिह, तहसीलदार", शब्दों के स्थान पर, "श्री सुरेन्द्र मलिक, तहसीलदार", शब्द रखे जाएंगे ।

[सं. आर-25011/44/2002-ओ.आर.-I(पार्ट)]

एस. के. चिटकारा, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 13th October, 2006

S.O. 4106.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 154 dated 13th January, 2006, published in the Gazette of India on the 14th January, 2006, namely :—

In the said notification, in the Schedule, in column 1, for the words, "Shri Prithvi Singh, Tehsildar", the words "Shri Surender Malik, Tehsildar" shall be substituted.

[No. R-25011/44/2002-OR-I(Pt.)]

S. K. CHITKARA, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 15 सितम्बर, 2006

का.आ 4107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 57/2005) को प्रकाशित करती है, जो केन्द्रीय सस्कार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/65/2005-आई आर(बी-1)]
अजय कुमार, डैस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 15th September, 2006

S.O. 4107.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/2005) of the Central Government Industrial Tribunal/Labour Court Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 15-9-2006.

[No. L-12012/65/2005-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 4th July, 2006

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 57/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of State Bank of India and their workmen)

BETWEEN

Sri R. Balasubramanian	:	I Party/Petitioner
AND		
The Assistant General Manager (Region II), State Bank of India Z.O. Madurai.	:	II Party/Management

APPEARANCE:

For the Petitioner	:	M/s. Aiyar & Dolia & R. Arumugam, Advocates
For the Management	:	Mr. V.R. Gopalarathnam Advocate

AWARD

The Central Government, Ministry of Labour *vide* Order No.L-12012/65/2005-IR (B-I) dated 01-07-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned order is as follows :—

> "Whether the punishment of discharge from service imposed to Sri R. Balasubramanian by the management of State Bank of India, Madurai is legal and justified ? If not, to what relief the workman is entitled ?"

2. After the receipt of the reference, it was taken on file as ID.No.57/2005 and notices were issued to both the parties and entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner was appointed as clerk-cum cashier-cum typist on 6-6-91 at Sirupakkam branch of the Respondent/Bank in Villupuram district and he was confirmed in permanent service of the Respondent/Bank w.e.f. 6-12-.91. While so, from the early months of 1994, his health condition started to deteriorate suddenly due to acute peptic ulcer, compounded by Hernia and spondylitis. As a result, he had to frequently go on leave on account of continued ill health and he requested the Respondent/Bank to consider his transfer to any of the branches in Madurai city where his parents are residing. Subsequently, he was transferred to Nilakottai branch which is 50 kms away from Madurai. The Petitioner joined Nilakottai branch in the fond hope that his health would improve and he could attend office and perform his duties without anymore problem. But here again due to severe spondylitis which forced him to proceed on leave frequently. He requested for transfer to anyone of the Madurai city branches on extreme ground of compassionate which did not evoke any positive response. Again, he requested the Respondent to transfer him temporarily to Madurai to enable him to undergo expert treatment. The Respondent considered the request of the Petitioner and transferred him to zonal office for a temporary period of three months in the year 1998. On the expiry of temporary transfer period, the Respondent/Bank did not accede to his request for transfer to Madurai on permanent basis and the Petitioner rejoined at Nilakottai branch obeying the orders of Respondent/Bank. But even after that neck pain and severe low back pain on account of aggravated spondilities due to daily commutation by bus journey relapsed in a fierce manner, hence again frequently he proceeded on leave. But to his shock, the Respondent/Bank ignoring his several requests, for sanction of leave of his absence issued a notice for initiating disciplinary proceedings and after issuance of charge memo, he was not permitted by the Respondent/Bank to join work. After the enquiry proceedings, the Disciplinary Authority

proposed to impose on him extreme punishment of discharge from service and after personal hearing, the Disciplinary Authority confirmed the proposed punishment on 16-9-02. Though he preferred an appeal, the Appellate Authority also confirmed the punishment imposed by the Disciplinary Authority by his order dated 19-11-2002. The entire proceedings initiated against him by the Respondent/ Management suffers from lot of procedural infirmities and a serious violation of principles of natural justice. Charge sheet relates only to his absence and the charge is very vague. The 1st para speaks about unauthorised absence without obtaining prior sanction, but the latter part of the charge sheet speaks about absence without intimation. The action was initiated in terms of 521 of Sastry Award read with para 18.28 of Desai Award whereas the bank employees are governed by a new settlement dated 10-4-2002 for any disciplinary action. Therefore, the order based on irrelevant clause of cannot be treated as a legal one, and hence it is to be declared as null and void. Any how, the punishment imposed by the Respondent/ Management was totally disproportionate to the charge alleged against the Petitioner. Hence, for all these reasons, Petitioner prays that an award may be passed directing the Respondent. to reinstate him into service with continuity of service, back wages and other attendant benefits.

4. But, as against this, the Respondent in its Counter Statement alleged that the Petitioner was unauthorisedly absent continuously for 286 days from Feb. 2002 to 14-12-2001 without prior sanction of leave nor did he apply for leave at any time thereby, he committed and act of misconduct of unauthorised absence. Therefore, the Respondent/Management issued a charge sheet dated 12-7-2001 and while submitting explanation, the Petitioner has accepted the charge levelled against him and he further stated that his absence was due to his ill health, however, it was not supported by any medical certificate. Since the explanation was not found to be satisfactory, the Disciplinary Authority initiated disciplinary proceedings. In the departmental proceedings held on 13-5-2002, the Petitioner categorically and unequivocally admitted the charge. He did not adduce any evidence or offer any reason for his absence. After the Enquiry Officer's report, he has not given any representation, even after the reminder was sent to him. Therefore, the Disciplinary Authority proposed the punishment and fixed the personal hearing and after hearing the Petitioner, the Disciplinary Authority imposed the punishment of discharge from service. Aggrieved by the order of Disciplinary Authority, the Petitioner preferred an appeal in which the Appellate Authority confirmed the punishment, of discharge from service imposed by the Disciplinary Authority. The, departmental proceedings were conducted in a fair and proper manner and there is no violation of principles of natural justice. Further, the Petitioner having participated in the departmental proceedings and making categorical admission of the charge levelled against him cannot make any grievance with respect to either enquiry or the punishment imposed. Even after the telegrams and letters sent to the Petitioner to report for duty, the Petitioner ignored the advice and neglected to report for duty deliberately. The ailment which the Petitioner alleged cannot be a reason for Petitioner's non-reply or his failure to report for duty. Once categorical admission of misconduct levelled against the Petitioner was made, the Petitioner cannot raise any objection to the conduct of enquiry. The Petitioner has not sent any application or medical certificate and it is false to allege that he has sent leave letters with medical certificate and it is false to allege that he has sent leave letters with medical certificate. Whatever provisions contained in Sastry Award and. Desai Award with respect to conduct of disciplinary proceedings have been retained in the Bipartite Settlement dated 10-4-2002. Hence, the conduct of disciplinary proceedings cannot be challenged by the Petitioner. Even on earlier occasion, the Petitioner's irregularity in and his long absence had been condoned by the Respondent by regularising the leave position of granting extraordinary leave on loss of pay. Therefore, the Petitioner's absence was deliberate, intentional and indicated that he had no intention to rejoin the service, which is a gross misconduct and hence punishment cannot be construed to be disproportionate to the gravity of the misconduct. Therefore the Respondent prays to dismiss the claim of the Petitioner.

5. As against this, the Petitioner again filed a rejoinder in which he has contended that the dates given in the counter is not correct. The chagres levelled against the Petitioner is that he has unauthorisedly absent for duty for 286 days without obtaining any prior sanction of leave. But the Branch Manager of the Respondent/Bank by a letter dated 6-1-2001 made it clear that the allegation made in charge sheet is not correct. The Petitioner sent his leave application and medical certificate for the days of absence upto 14-2-2001. The branch received those leave application and medical certificates and the same was entered in leave register maintained by the branch and the Branch Manager recommended for extraordinary leave on loss of pay for those periods. Therefore, it cannot be said that the absence of Petitioner is not unauthorised and it is only absent without leave which comes only as minor misconduct. The Petitioner sent his leave letters with medical certificates then and there and the based on the same, the EOL on loss of pay was recommended by the Branch Manager which can be seen from the leave register maintained by the branch. Therefore, the whole order is illegal and against the law. The bank issued a circular dated 1-8-2002 thereby the Respondent/Management stated that settlement dated 10-4-2002 is in supersession of all the earlier provisions relating to Disciplinary action procedure for the workmen. Therefore, the action of the Respondent on the superceded non-existing procedure is illegal and liable to be set aside. The Disciplinary Authority of the of Respondent/ Management in the same Zonal Office at Madurai for similar

and identical charges took a different view in respect of two employees namely S/Sri R. Ramasamy and M. Manoharan and imposed minor punishment of censure. On the other hand, the punishment of discharge was imposed on the Petitioner, which is totally discriminated and capital punishment was imposed on him and this Tribunal has got ample powers under section ll A of the I.D. Act to interfere with the order of discharge when especially for similar and identitcal charges different lesser punishment of censure was imposed by the Respondent. Therefore, he prays that an award may be passed in his favour.

6. Against this, the Respondent in its additional reply statement contended that no employee is entitled to any leave as a matter of right. Even under leave rules an employee is entitled to sick leave @ one month on half substantive pay for each year of service subject to a maximum of 12 months during his entire service. Similarly, an employee may be granted extraordinary leave on loss of pay only when no ordinary leave is applicable and such leave except in exceptional circumstances should not exceed three months on any occasion and 12 months for the entire period of service. But the Petitioner has never adhered to bank leave rules. In the year 1993-94 the Petitioner was absent for nearly 313 days besides exhausting all other kinds of leave. Again during the period from 1-1-96 to 28-7-97 the Petitioner was absent for nearly 162 days. It is the usual practice of the Petitioner to furnish leave application only after availing of leave. Therefore, the 162 days was treated by the authorities as unauthorised absence and instructed for initiating disciplinary action. The Petitioner again from 18-1-2000 to 15-2-2000 was on leave for 29 days thereby he exhausted 29 days privilege leave. Thus, his leave record shows, that he has availed nine months and thirteen days sick leave which would mean that he had overdrawn sick leave by one month. The Petitioner has not produced medical records like investigation records, prescriptions for medicines or x-ray or any other evidence to support his claim that he has been suffering from serious disease which prevented him from attending office. The Bipartite Settlement dated 10-4-2002 is a codification or consolidation of the provisions of the awards as modified by settlements which govern disciplinary action procedure for workmen in the banks. The allegation of the Petitioner that his conduct is only minor misconduct is wrong and not tenable. Merely sending leave letters would not clothe the Petitioner with the right to get leave. No leave or extension of leave shall be deemed to have been granted unless an order to that effect is passed and communicated to the employee concerned. Further, the recommendation reportedly made by the Branch Manager for grant of extraordinary leave on loss of pay cannot be presumed to have been granted. Even the employee can avail maximum period of ELOP of 12 months during the period of service. Further, it is not the matter of right for an employee to avail such leave. Thus the Petitioner deliberately and wilfully abstained from attending the office. The Petitioner has categorically admitted the charges levelled against him at the enquiry proceedings and his request to stay at Madurai, in effect, clearly shows his unwillingness to work in Respondent/Bank in any other area. The case relating to some of the employees by the Petitioner is quite different and distinguishable. Furthermore, disciplinary action alleged to have been taken place against the said employees after the period of three years from the date of punishment imposed on the Petitioner. The Petitioner cannot contend that he was discriminated in the matter of punishment. Hence, for all these reasons, the Respondent prays to dismiss the claim with costs.

7. In these circumstances, the points for my consideration are—

(i) "Whether the punishment of discharge imposed on the Petitioner by the Respondent/Management is legal and justified?"

(ii) "To what relief the Petitioner is entitled?"

Point No.1:

8. The case of the Petitioner in this dispute is that he was appointed as a clerk-cum-cashier-cum-typest in the Respondent/Bank on 6-6-91 and was confirmed from 6-12-91. But from the beginning of 1994, his health condition was stated to be deteriorated due to acute peptic ulcer compounded by Hernia and spondylitis because he had to commute from Nilakottai to Madurai and due to severe spondylitis, his ill health forced him to proceed on leave. During the year 2000 again, he was affected by spondylitis and he sent several leave applications requesting leave from 20-6-2000 to 19-7-2000 with medical certificate. Again for the period from 20-7-2000 to 19-8-2000 he sent leave application. Similarly he sent a telegram requesting leave for the period from 20-9-2000 to 19-10-2000. The Respondent/Management has received those leave applications and medical certificates and the same was entered into leave register maintained by the Branch Manager and the Branch Manager recommended these leave as Extraordinary leave on loss of pay. But all of a sudden, the Respondent/Bank branch at Nilakottai sent a letter dated 6-1-2001 alleging that the Petitioner was not attending duties from 20-6-2000 and leave application was not submitted since 20-9-2000 and no medical certificate was produced since 20-8-2000 and subsequently, a charge sheet dated 12-7-2001 was issued to him alleging that he was absented for duty from February, 2000 to 14-2-2001 and the Petitioner further alleged that charge framed against him are vague and without any merits and the enquiry proceedings taken against him is also not bonafide and the punishment imposed on him is disproportionate to the misconduct alleged against him and on all these grounds, he attacks the order passed by the authorities and raised this dispute.

9. As against this, the Respondent contended that no employee is entitled to any leave as a matter of right. According to leave rules of the Respondent applicable to award staff, an employee is entitled to sick leave @ one month on half substantive pay for each year of service, subject to a maximum of 12 months during his entire service. But, in this case, from, the records it is clear that the Petitioner has availed more than nine months and 13 days sick leave which would mean that he had overdrawn sick leave by one month (the Petitioner joined in the year 1991). Similarly, an employee may be granted EOL on loss of pay only when no ordinary leave is available. Further, such leave except in exceptional circumstances should not exceed three months on any occasion and 12 months for the entire period of service. Though the Petitioner joined the bank service in the year 1991, he never adhered to bank's leave rules in the year 1993-94. The Petitioner was absent for 313 days besides exhausting all other kinds of leave. Even while regularising the leave, the authorities concerned observed from the leave records of the Petitioner that "he is in the habit of availing leave frequently on flimsy medical grounds and submit leave applications along with medical certificates after availing of leave and he was granted leave without pay for the said period. During the period from 1-1-96 to 28-7-97 the Petitioner, availed 162 days and he furnished leave application only after the leave. The above absence for 162 days was treated as unauthorised absence and disciplinary action was initiated against him. Again, from 18-1-2000 to 15-2-2000 he was on leave for 29 days, thereby he exhausted 29 days privilege leave. Therefore, he has exhausted all the leave and he had no leave at his credit and even after several reminders sent by the Respondent/Management, he has not joined duty. Further, the Petitioner has not produced any medical records like investigation reports, prescription for medicine or x-ray or any other evidence to support his claim that he had been suffering from serious disease which prevented him from attending the office. Therefore, he is a chronic absentee and deliberately and wilfully absented from duties and he has stated his illness as a cause only to wriggle out the situation and he has not interested in working under the Respondent/Bank.

10. In order to substantiate his contention, the Petitioner examined himself as WW 1 and marked 20 documents as Ex.W1 to W20. Learned counsel for the Petitioner contended that it is false to allege that the Petitioner has not given any medical certificate or leave letter and every time, he has sent his leave letter along with medical certificate and the Branch Manager also recommended his leave EOL on loss of pay, therefore, it is false to allege that he was absented from, duty without any leave. Frequent non-attendance of the Petitioner was only due to his ill health and consequent medical treatment. Therefore, the charge framed against the Petitioner that he was unauthorisedly absent for the period from February, 2000 to 14-2-2001 is not a valid reason. Learned counsel for the Petitioner further contended that no doubt, the Respondent/Bank has initiated disciplinary proceedings but the entire proceedings initiated against him by the Respondent/Bank suffers from lot of procedural infirmities and a serious violation of principles of natural justice which govern the conduct of departmental proceedings. As already stated, the 1st para of the charge speaks about unauthorised absence without obtaining prior sanction, when the Petitioner was seriously affected due to ill health, it is humanly impossible for anyone to obtain prior permission when he was laid up with severe indisposition, but in the latter part, it was alleged as absence without intimation. In the enquiry, the Respondent has not established the fact that the Petitioner has failed to give intimation with regard to his absence. Even the documents produced in enquiry brought out contradiction in framing charges. It is established by the Petitioner that he has submitted his leave application with medical certificates which were ignored by the Respondent/Bank and therefore, framing of charge itself is not valid. Further, the action was initiated in terms of para 521 of Sastri Award read with para 18.28 of Desai Award, but the bank employees namely award staff are governed by new settlement dated 10-4-2002 for any disciplinary action and this has been very clearly spelt out by the Respondent/Bank itself by means of a circular dated 1-8-2002, copy of which is marked as Ex.W12. Therefore, the proposed punishment and final orders issued by Disciplinary Authority which were based on irrelevant clause of obsolete award cannot be treated as a legal one and hence the same has to be set aside as null and void. Learned counsel for the Petitioner further contended that even assuming for argument sake that the enquiry held by the Respondent/Bank is valid, the punishment imposed on the Petitioner is very heavy and it was totally disproportionate to the gravity of the charge alleged against the Petitioner. Had the bank sanctioned necessary leave for allowing him to take medical treatment and acceded to his request for transfer to the place where expert medical treatment is available, he would have definitely come out of his predicament and would have led a normal life rendering loyal service to the bank. But, on the other hand, his request for transfer to Madurai was refused and he was also not sanctioned leave for his medical treatment. Under such circumstances, the orders passed by the Respondent authorities suffers from infirmities, discrepancy and contradiction and it was also shockingly disproportionate and hence it is liable to be set aside.

11. But, as against this, learned counsel for the Respondent contended that no employee is entitled to any leave as a matter of right. In this case, the Petitioner has availed leave more than what he was entitled namely sick leave and EOL on loss of pay. Under such circumstances, no doubt, the Petitioner has applied for leave and the Branch Manager also recommended for EOL on loss of pay, but there was no leave at his credit and hence he was asked to join duty immediately and it was informed to the

Petitioner by way of several reminders and even after that, he has not joined duty. Further, the Respondent authorities sent registered notice to the Petitioner thereby informed him to join duty immediately. But, even after that the Petitioner has not joined duty and no explanation was given to the Respondent authorities and no medical certificates with records were submitted by the Petitioner. Though he alleged that he has sent application with medical certificate, no leave was sanctioned on that application and he was informed that he has no leave at his credit and asked him to join duty immediately. Under such circumstances, the Petitioner cannot blame the authorities for not sanctioning leave to him. Therefore, the recommendation reportedly made by Branch Manager for grant of EOL on loss of pay cannot be presumed to have been granted. Merely sending leave letters would not clothe the Petitioner with, the right to get leave and no leave or extension of leave shall be deemed to have been granted unless an order to that effect is passed and communicated to the concerned employee. In this case, on each and every occasion, the Petitioner was informed that he has no leave at his credit and to join duty immediately, but without giving any reply, to the said intimation and without giving any explanation for not attending the office, he has kept quite. Therefore, the absence of the Petitioner, was deliberate and he wilfully abstained from attending the office. It is only roose to allege that he has been affected by spondylities and other ailments. Learned counsel for the Respondent further contended that charge sheet was issued to the Petitioner, but he has not given any explanation that his absence was due to his ill health but when the disciplinary proceedings was initiated against him, he has categorically admitted that the charge framed against him. Thus, the Petitioner's categorical admission will clearly establish that his absence was deliberate and he has wilfully abstained from doing work. Further, he did not adduce any evidence or any other reason for his absence nor produced any medical certificate before the Enquiry Officer, on the other hand, on the side of the Respondent/Management as many as eight documents were produced and he has also not objected for marking of those documents. From these documents, it is clearly established that Respondent/Bank had been directing the Petitioner to report for duty, but the said letters / telegrams did not evoke any response from the Petitioner. The departmental proceedings were conducted in a fair and proper manner and there is no violation of principles of natural justice. The Petitioner having participated in the departmental proceedings and made categorical admission of the charges levelled against him, cannot now make any grievance with regard to the enquiry or punishment imposed on him. Learned counsel for the Respondent further contended that though the Petitioner's advocate argued that the provisions contained in the charge sheet is an obsolete one and the punishment was imposed on the Petitioner on the wrong provision of departmental proceedings, the Petitioner has never objected to the proceedings taken against him as illegal. Further whatever provisions contained in Sastry Award and Desai Award with regard to conduct and disciplinary proceedings have been retain in Bipartite Settlement dated 10-4-2002. Further, Bipartite Settlement dated 10-4-2002 is a codification or consolidation of the provisions of the awards as modified by settlements which govern disciplinary action procedure for workmen in the bank and under such circumstances, it cannot be valid to contend that he has been imposed punishment on a wrong procedure. Learned counsel for the Respondent further relied on the rulings reported in AIR 1968 SC 266 CENTRAL BANK OF INDIA *Vs.* KARUNAMOY BANERJEE wherein the Supreme Court while considering the departmental, proceedings has stated that *"rules of natural justice will have to be observed, in the conduct of a domestic enquiry against a workman. If the allegations are denied by workman, the burden of proving the truth of those allegations will be on the management and the witness called by the management must be allowed to be cross examined by the workman and the latter must also be given an opportunity to examine himself and adduce any other evidence that he might choose in support of his plea. But if the workman admits his guilt to insist upon the management to let in evidence about the allegations will only be an empty formality. In such a case, it will be open to the management to examine the workman himself, even in the first instance, so as to enable him to offer any explanation for his conduct, or to place before the management any circumstances which will go to mitigate the gravity of offence."* Again, the learned counsel' for the Respondent relied on the rulings reported in AIR 1996 SC 484 B.C. CHATURVEDI *Vs.* UNION OF INDIA wherein the Supreme Court has held that *"the High Court or Tribunal while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the Disciplinary Authority or the Appellate Authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief"* Relying on this decision, learned counsel for the Respondent contended that it cannot be held that the punishment of discharge imposed on the Petitioner who was deliberately and wilfully absented for duty will shock the conscience of the Tribunal. Then again, he relied on the rulings reported in 2005 II LL,J507 BIKSHAPATI VIRAYYA Vs. UNION OF INDIA AND OTHERS, wherein the Andhra Pradesh High Court while considering the termination of service of an employee who was unauthorisedly absent for 172 days has held that *"absence of* 172 *days from duty on number of occasions without sanction is inconsistent with the conduct expected of a public servant, a railway employee in this case, the misconduct is of sufficient gravity to warrant removal from service."* Relying on all these decisions, the learned counsel for the Respondent argued that in this case, the Petitioner was absented for duty more than 296 days without

sanction, which is inconsistent with the conduct expected from a bank employee. Under such circumstances, it cannot be said that the punishment imposed on him is shockingly disproportionate to the misconduct alleged against him and he further argued that the Petitioner has admitted the charge framed against him and he has not produced any document to show that he was affected by illness. Therefore, this Tribunal need not set aside the punishment awarded by the Disciplinary Authority.

12. I find much force in the contention of the learned counsel for the Respondent. Because, though in this case, the Petitioner alleged that he suffered from serious illness, he has not given any explanation for his long absence, when he was asked to give explanation. Further, he has not produced any medical records to establish his claim before the Disciplinary Authority, on the other hand, he has admitted the charge framed against him namely unauthorised absence during the period from February, 2000 to 14-2-2001 and he has also not produced any document before Disciplinary Authority for his long absence. Under such circumstances, I am not inclined to accept the contention of the learned counsel for the Petitioner that the punishment imposed by the Respondent authorities are disproportionate to the misconduct alleged against him. As such, I find this point against the Petitioner.

Point No. 2 :-

The next point to be decided in this case is to what relief the Petitioner is entitled?

13. In view of my foregoing findings, I find the Petitioner is not entitled to any relief. No Costs.

14. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 4th July, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined:

For the Petitioner : WW1 Sri R. Balasubramanian

For the Respondent : None

Documents Marked:

For the I Party/Petitioner:

Ex. No.	Date	Description
W1	31-08-94	Xerox copy of the letter from Respondent to Petitioner.
W2	06-09-94	Xerox copy of the medical board certificate.
W3	May, 2000	Xerox copy of the PF statement of Respondent.
W4	June, 2000	Xerox copy of the PF statement of Respondent.
W5	20-06-00	Xerox copy of the leave application of Petitioner.
W6	20-06-00	Xerox copy of the medical certificate.
W7	20-08-00	Xerox copy of the leave application of Petitioner.
W8	20-09-00	Xerox copy of the telegram for leeave sent by Petitioner.
W9	May-Dec. 00	Xerox copy of the leave register of Respondent/Bank.
W10	06-01-01	Xerox copy of the letter from Respondent to Petitioner.
W11	10-04-02	Xerox copy of the settlement u/s. 18(1).
W12	01-08-02	Xerox copy of the circular issued by Respondent.
W13	30-08-04	Xerox copy of the 2A petition.
W14	24-11-04	Xerox copy of the rejoinder.
W15	15-07-05	Xerox copy of the Charge Sheet issued to Ramasamy.
W16	04-08-05	Xerox copy of the explanation given by Ramasamy
W17	30-08-05	Xerox copy of the Order issued to Ramasamy.
W18	15-07-05	Xerox copy of the Charge Sheet issued to Manoharan.
W19	06-08-05	Xerox copy of the explanation given by Manoharan.
W20	04-10-05	Xerox copy of the order issued to Mr. Manoharan.

For the II Party/Management:

Ex.No.	Date	Description
M 1	12-07-01	Xerox copy of the Charge Sheet issued to Petitioner.
M2	31-12-01	Xerox copy of the reply given by Petitioner to Charge Sheet.
M3	06-02-02	Xerox copy of the letter of Disciplinary Authority Appointing Enquiry Officer.
M4	13-05-02	Xerox copy of the enquiry proceeding.
M5	07-06-02	Xerox copy of the enquiry report.
M6	26-06-02	Xerox copy of the letter from Disciplinary Authority to Petitioner to furnish comments on the report.
M7	16-09-02	Xerox copy of the minutes of personal hearing.
M8	16-09-02	Xerox copy of the order of punishment given by Disciplinary Authority.
M9	18-11-02	Xerox copy of the order of Appellate Authority.
M10	19-11-02	Xerox copy of the communication of order of Appellate Authority.
M11	13-11-02	Xerox copy of the record of personal hearing before Appellate Authority.
M12	31-03-67	Xerox copy of the agreement containing leave rules.
M13	09-08-02	Xerox copy of the leave letter submitted by Petitioner.
M14	Nil	Xerox copy of the PF statements of the branch.
M15	14-02-95	Xerox copy of the Bipartite Settlerment.

नई दिल्ली, 15 सितम्बर, 2006

का.आ 4108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिटी यूनियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 396/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/87/2004-आई आर(बी-I)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the15th September, 2006

S.O. 4108.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 396/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of City Union Bank and their workman, which was received by the Central Government on 15-9-2006.

[No. L-12012/87/2004-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 27th June, 2006

PRESENT:

K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 396/2004

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of City Union Bank and their workmen).

BETWEEN

Sri R.Krishnamurthy : I Party/Petitioner

AND

The General Manager City Union Bank, HO, Kumbakonam : II Party/Management

APPEARANCE:

For the Petitioner : M/s. C. Hanumantha Rao, Advocates

For the Management : M/s. K. Jayaraman, Advocates

AWARD

The Central Government, Ministry of Labour *vide* Order No. L-12012/87/2004-IR (B-I) dated 23-07-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

> "Whether the termination of Sri R. Krishnamorthy by the management of City Union Bank, Kumbakonam is legal and justified ? If not, to what relief the workman is entitled ?"

2. After the receipt of the reference, it was taken on file as LD.No.396/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows :

The Petitioner joined the services of the Respondent/Bank on 10-7-81 and he was employed as unpaid apprentice clerk at Erode branch and he had rendered two years of continuous service before availing leave on medical grounds. Again, when the bank issued notification in the year 1987, he has submitted an application with certificate and the Respondent also sent hall ticket asking the Petitioner to appear for an examination. But, he was not allowed to sit for examination without assigning any reason. Any how the Petitioner has rendered 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months and thus he deemed to have attained the permanent status under labour legislations. Therefore, the termination order issued by the Respondent/management without complying with the provisions of Section 25F of the I.D. Act is not valid, While so, the Petitioner inadvertently raised the dispute before labour officer, Tanjore and subsequently, filed a claim statement before Labour Court, Cuddalore and therefore, the Labour Court has disposed of the matter that the court has no jurisdiction to entertain and adjudicate the matter. thereafter, he raised the dispute before Assistant Labour Commissioner (Central) which ended in failure. The allegation of the Respondent/Management that the Petitioner was over aged and he was ineligible according to the qualification indicated in the notification and that a communication was sent cancelling the earlier communication are all false. The Respondent/Bank is bound to retain the records and produced the same before the Court and should not contend that they do not have records prior to ten years and this Tribunal has got ample power to draw an adverse inference against the Respondent/Bank. The Banking Regulation Act Section 2 clearly states that the said Act shall be in addition to and not in derogation of any other law. Under the provision of Banking Companies Act (period of preservation of records) Rules 1985 the bank has to maintain records for a period of eight years and in case, a case is pending before the Court they have to

maintain records irrespective of the period stipulated in rules. In this case, the dispute was raised in the year 1987 and therefore, the Respondent has to maintain all records. hence, the Petitioner prays that an award may be passed to reinstate the Petitioner in service w.e.f. 12-3-1983 with all consequential benefits.

4. As against this, the Respondent in its Counter Statement contended that at the first instance, the Petitioner was never employed in any capacity at any point of time. The relationship of employer and workman never existed between this Respondent and the Petitioner. The Petitioner cannot be constructed as a workman nor the Respondent as his employer. The present reference itself is incompetent, bad and beyond the powers of Govt. The Petitioner was never terminated as alleged by him. The Petitioner cannot invoke any of the provisions of I.D. Act much less Section 2A of the Act. Without prejudice to the above contention, the Petitioner was engaged as unpaid apprentice by an order dated 10-7-81 by the Respondent and he joined as unpaid apprentice as per the above said order. Having undergone the period of training for only 1½ months the Petitioner thereafter did not report for duty to the establishment and he did not communicate to the Respondent in any manner. Subsequently, in the year 1998 the Petitioer invoking provisions of section 2A of I.D. Act filed a petition before Labour Officer, Thanjavur. Since the Labour Court, Thanjavur has no jurisdiction, the claim of the Petitioer was rejected. Thereafter, belatedly in respect of his alleged non-employment, the Petitioer raised a dispute before the Government of India stating falsely that he was employed in the Respondent/Bank and he was terminated as he has availed leave on the ground of sickness. No doubt, the Petitioner has applied for vacancy in the Respondent establishment in 1987, but he was not permitted to sit for examination on the ground that he was not eligible and his date of birth as per his application is 19-1-51 and for the post of Clerk, minimum qualification prescribed was graduation and the eligibility criteria was notified and the age of applicant was 26 years as on 1-1-98 and therefore, the letter permitting him to sit over the examination was cancelled by another communication dated 25-9-87. But such dispute is totally outside the purview of Section 2A. The Petitioner never rendered continuous service as alleged by him of 240 days in a period of 12 calendar months and 480 days in a period of 24 calendar months. The Petitioner was never employed much less employed in a permanent sanctioned post and he was never retrenched. The Petitioner has filed a suit before District Munsiff Court in O.S. No. 670/90 claiming Rs. 10,000/- and also for a direction that Respondent/Bank should provide him with a post of clerk and the suit was dismissed. Since the Petitioner has elected his remedy elsewhere and as the suit was dismissed, the Petitioner has no locus standi to approach this Tribunal for any further relief. The dismissal of the said suit would operate as res judicata for any further action on the part of the Petitioner. Further the claim of the Petitioner is stale and extraordinarily belated. The Petitioner was guilty of laches and delay. The Petitioner was also guilty of negligence and inaction. The Petitioner alleged that he was employed in the year 1981 and who having gone to civil court in the year 1990 did not approach the authorities under I.D. Act till 1998. Hence, for all these reasons, the Respondent prays that claim of the Petitioner is liable to be dismissed.

5. In these circumstances, the points for my consideration are—

(i) "Whether the termination of the Petitioner by the Respondent/Management is legal and justified?

(ii) "To what relief the Petitioner is entitled?"

Point No. 1

6. The case of the Petitioner in this dispute is that the Petitioner is a workman and he was appointed by the Respondent/Management by its order dated 10-7-1981. Even though he was appointed as an unpaid apprentice clerk, he joined duty at Erode branch of Respondent/Bank on 10-7-81 and he has rendered about two years of continuous service from 10-7-81. While so, he was terminated on 12-3-83 without any assigning any reason by the Respondent/Bank. Even after his termination in the year 1987, as per notification of the Respondent/Bank, the Petitioner has submitted his application for the post of clerk and at the first instance, he was asked to appear for examination, but subsequently he was not allowed to sit for examination without assigning any reason. Since the termination is illegal and since the Respondent has not followed the mandatory provision of section 25F of the I.D. Act, the order of termination passed by the Respondent/ Bank is void ab initio and he is entitled to be reinstated in service.

7. On behalf of the Respondent it is contended that the Petitioner was never employed in any capacity at any point of time. There is no relationship of employer-employee between the Respondent and Petitioner and he cannot be construed as a workman. The Petitioner was engaged himself as unpaid apprentice for a period of two months by an order dated 10-7-81. He joined as unpaid apprentice on 15-7-81 at Erode and within 1½ months he did not report for duty to the establishment and he did not continue in the post as apprentice and therefore, there is no question of appointment or termination by the Respondent/Bank and hence, the Petitioner is not entitled to any relief much less relief of reinstatement at this long lapse of time.

8. Since the Petitioner alleged that he is a workman under I.D. Act and he has served for more than 240 days in continuous period of 12 calendar months and 480 days in a

continuous period of 24 calendar months, the burden of proving this fact is upon the Petitioner. In order to establish this fact, the Petitioner has examined himself as WW1 and produced six documents and all the six documents are copy of his representation to the Respondent/Management by certificate of posting. As against this, on the side of the Respondent/Management, one Mr. S. Sridaran, Deputy General Manager (Advances) of the Respondent/ Management , who was working as Branch Manager in Erode branch during the year 1981, was examined as MW1 and on their side 17 documents were marked as Ex. M1 to M17. Ex. M1 is the copy of office order posting the Petitioner as unpaid apprentice dated 10-7-81. Ex.M2 is the copy of application for appointment of clerk dated 28-8-87 sent by the Petitioner. Ex. M3 is the copy of letter sent by Petitioner requesting employment. Ex. M4 is the copy of call letter sent to the Petitioner for written test. Ex. M5 is the copy of notice issued by Petitioner's advocate. Ex.M6 is the copy of reply to the above notice sent by Respondent/Bank advocate. Ex. M7 is the copy of written statement of Petitioner Labour Office, Tanjore. Ex. M8 is the copy of Petitioner's claim in I.D. 22/2001. Ex. M9 is the copy of 2A petition filed by Petitioner before Assistant Labour Commissioner (Central). Ex. M10 is the copy of comments filed by Respondent before Assistant Labour Commissioner (Central). Ex.M11 is the copy of acquittance role register for July, 1981. Ex. M12 is the copy of notification dated 14-8-87. Ex.M13 is the copy of letter sent by Respondent/Bank rejecting the application of Petitioner. Ex. M14 is the copy of draft return letter. Ex.15 is the copy of order in O.S. No. 670/90. Ex. M16 is the copy of reply filed by Respondent before Labour Authorities, Tanjore. Ex. M17 is the copy of written statement filed by Respondent in I.D. No. 22/20021.

9. Learned counsel for the Petitioner contended that the Petitioner is a workman and he was appointed by the Respondent by its order dated 10-7-91 under Ex. M1. Even though he was appointed as unpaid apprentice clerk and joined at Erode branch on 10-7-81 he was performing despatch work, work relating to savings bank account, clearing house work, accounting of stamp etc. by doing these work, he has worked in the Respondent/Management and he was allotted accommodation in the office at free of cost. Thus, the Petitioner has rendered two years of continuous service from 10-7-81 and all of a sudden, his services were terminated on 12-3-83 without assigning any reasons. Since he has worked for more than 240 days as per Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981, the services of the Petitioner had to be regularised by the Respondent/ Bank and the Respondent who is doing banking business without following the mandatory provisions of Section 25F of the I.D. Act has terminated the Petitioner without any notice or without giving any compensation and therefore, the order passed by the Respondent/Management is illegal, void ab initio. No doubt, the Petitioner has not produced any document to show that he has worked from 10-7-81 to 12-3-83 but, all the documents are with the Respondent/Management and the Petitioner is not in a position to produce the documents which are in the custody of the Respondent. Any how, the contention of the Respondent is that under Ex. M1 he was appointed as unpaid apprentice clerk for a period of two years from the date of joining and within a period of 1 ½ months, he has gone to his native place for treatment and never returned to work. If really, this contention is a true one, then the management has set up only defence of voluntary abandonment of service, but the voluntary abandonment has not been proved to the satisfaction of this Tribunal. The evidence of MW1 clearly says that the Petitioner has worked as a clerk. In his cross examination, he has stated that the Petitioner is qualified for the post of clerk. Therefore, the burden of proving the fact that the Petitioner has left the job within 1 ½ months is upon the Respondent, but this burden has not been discharged by the Respondent with any satisfactory evidence. Further the contention of the Respondent in the Counter Statement and the evidence given by MW1 in the witness box are contradictory. In para 6 of the Counter Statement, they alleged that the Petitioner did not report to the establishment after having undergone the period of training for only 1 ½ months. In other words, it is the contention of the Respondent that the Petitioner has voluntarily abandoned his service, but the Respondent/Bank has not let in any evidence to show that the Petitioner has worked only for 1½ months as a trainee and he left the post. Only the witness, who was examined on the side of the Respondent has clearly stated that 'he cannot say, when the Petitioner has left the service'. He has also admitted that he has not produced any document to show when the Petitioner has left the service. Even though the Petitioner has filed the petition for production of registers to show the period of his employment under the Respondent/Bank, they have not produced the same and I.A. No. 201/2006 was dismissed on the ground that documents must have been destroyed. Therefore, the Petitioner is not in a position to produce documents which were in the hands of Respondent/ Management. Though the Respondent has contended that the Petitioner has worked only for 1 1/2 months as apprentice and left the service, they have not produced any satisfactory evidence to prove this contention. Further, the MW1 has stated that after completion of training, he was working as probationer, therefore, the contention of abandonment of service as alleged by the Respondent/ Management has not been established before this Court and it is the bounden duty of the Respondent/Management to prove that the workman has abandoned his service. Abandonment is a question of intention and such an intention cannot be attributed without adequate evidence. Under such circumstances, the Respondent has not established the fact that the Petitioner has abandoned his

job, hence it should be presumed that the Petitioner has worked for more than the statutory period. Further, though the Respondent alleged that the Petitioner has abandoned his work, it is the case of Respondent that they have conducted any enquiry with regard to the abandonment of his service. But, on the other hand, the Petitioner by his letter dated 20-6-1983 and 15-2-84 and other letters, copy of which are marked as Ex. W1 to W6, had requested for employment. Even after these letters, the Respondent/ Management has not taken any action. Therefore, the plea of abandonment of service has not been proved and hence, the Petitioner is deemed to be in service from 12-3-83 as alleged by him.

10. But, on the other hand, learned counsel for the Respondent contended that from Ex.M1 it is clear that the Petitioner has engaged himself as unpaid apprentice for a period of two months. He joined as unpaid apprentice on 15-7-81 at Erode branch of Respondent/Bank and having undergone the period of training for 1 1/2 months, the Petitioner did not report for job to the establishment and he did not communicate to the Respondent in any manner and in the year 1988, the Petitioner invoking provisions of Section 2A of I.D. Act had filed a petition before Labour Officer, Tanjavur and it was also referred to Labour Court, Cuddalore, which was duly resisted by the Respondent/ Management. Ultimately, the Labour Court, Cuddalore dismissed the claim of the Petitioner on the ground that they have no jurisdiction. In the mean time, the Petitioner has applied for the post of clerk in the year 1987 i.e. long after his voluntary cessation of Respondent/ Management. But, the Petitioner was not permitted to sit for examination on the ground that he was over aged. Since the Petitioner's age was found as more than 31 years, as on 1-1-88, the, call, letter issued by the Respondent/Bank was cancelled, by another communication dated 25-9-87. Learned counsel for the Respondent contended that the Petitioner never rendered continuous service as alleged by him for more than 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months. He has engaged himself as an unpaid apprentice only for a period of 1½ months and he cannot he deemed to be attained permanent status alleged by him. Any how, the question of permanency has to be decided by the appropriate authority under Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workmen) Act, 1981 and it cannot be adjudicated under section 2A of the I.D. Act. In this case, the Petitioner was never employed as an employee under permanent sanctioned post and he was never retrenched and therefore, Respondent/Bank has not violated any of the provisions of Act much less Section 25F of the I.D. Act. It is the further contention of the learned counsel for the Respondent that after the rejection of application given by the Petitioner, the Petitioner has issued an advocate notice dated 3-10-87 and he demanded that he should be either provided suitable post or payment of compensation of Rs.10,000/- . But his claims were duly answered by Respondent and even the suit filed by the Petitioner before District Munsiff Court at Kumbakonam in O.S. No. 670/90 was also dismissed. Since the Petitioner has elected his remedy in civil court, the suit was dismissed. Hence, this Petitioner has no loco standi to approach this Tribunal for any relief. The dismissal of the suit would operate as res judicata for any further claim on the Petitioner. Learned counsel for the Respondent relied on the rulings reported in 2006 I LLN 137 NATIONAL INSURANCE CO. LTD. Vs. MASTAN AND ANOTHER which arise from Workmen Compensation Act. In that claimant has not chosen to withdraw his claim under Workmen's Compensation Act before it reached the point of judgement, with a view to approach the Motor Accidents Claims Tribunal. What he has done is to pursue his claim under Workmen's Compensation Act, till the award was passed and also to invoke a provision of Motor Vehicles Act, he has not made applicable to claim under Workmen's Compensation Act . In that case, the Supreme Court has held that the claimant/ Respondent is not entitled to do so and the High Court was in error in holding that he is entitled to do so. Relying on this judgement, learned counsel for the Respondent argued that the doctrine of election is based on the rule of estoppel and the principle that one cannot approbate and reprobate inheres in it. The doctrine of estoppel by election is one of the species of estoppel in pais (os equitable estoppel) which is a rule in equity. By that rule, a person may be precluded by his action or conduct or silence when it is his duty to speak from asserting a right which he otherwise would have had. In this case, when the Petitioner alleged to be a workman entitled to the, benefits of Industrial Laws, he has to approach the labour authorities even at the initial stage. Though he alleged that he has been terminated by the Respondent/Bank illegally, he has not taken the matter before labour authorities, on the other hand, he has chosen to civil remedy for compensation which was ultimately dismissed against him. Under such circumstances, he cannot again raise dispute under Industrial Disputes Act after a long lapse of time i.e. only after the alleged termination. Learned counsel for the Respondent further relied on the rulings reported in 2005 5 SCC 91 HARYANA STATE CO-OP. LAND DEVELOPMENT BANK Vs. NEELAM wherein the Supreme Court has held that *aim and object of Industrial Disputes Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct, a workman would automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to the industrial are proceedings. In that case, the workman concerned has approached the Labour Court after more than seven years and it was considered by Labour court and the Labour Court refused to grant any relief and it was upheld by the Supreme Court. In*

which the Supreme Court has held that "it is trite that Courts and Tribunals having plenary jurisdiction have discretionary power to grant an appropriate relief to parties. The, aim and object of I.D. Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct a workman automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to industrial proceedings. A person in certain situation may even be held to be bound by doctrine of acceptance sub silentio. The Respondent did not raise any industrial dispute questioning the termination of her service within a reasonable time. She even accepted an alternative employment and has been continuing therein from 10-8-88. In her application filed before Labour Court, while traversing the plea raised by the appellant that she is gainfully employed in HUDA w.e.f 10-8-88 and her services had been regularised therein it was averred. Thus the conduct of the Respondent in approaching Labour Court after 7 years has been considered as a relevant factor for refusing to grant any relief to her. Therefore, such consideration cannot be said to be irrelevant one. Labour Court in the above mentioned situation cannot said to have exercised its discretionary jurisdiction injudiciously, arbitrarily and capriciously warranting interference at the hands of High Court under Article 226 of Constitution." Relying on this rulings, learned counsel for the Respondent contended that though the Petitioner alleged that he has been terminated illegally by the Respondent/Management during the year 1983, he has not approached the labour authorities within a reasonable time. On the other hand, he has approached the Civil Court for compensation in the year 1990. When his civil suit was dismissed by civil court, again he has approached the labour authorities after a long lapse of time and he has not given any satisfactory explanation for this long delay namely 15 years. Hence, the claim is liable to be dismissed.

11. I find much force in the contention of the learned counsel for the Respondent.

12. Learned counsel for the Respondent further contended that the claim of the Petitioner is stale and extraordinarily belated and the Petitioner was guilty of laches and delay and he was also guilty of negligence and inaction. Then the learned counsel for the Respondent contended that though the Petitioner alleged that he has worked for more than 240 days, there is not even an iota of evidence to substantiate his contention and except his oral testimony, there is no document to show that he has worked for more than 240 days in a period of 12 calendar months and 480 days in a period of 24 calendar months. It is well settled by the Supreme Court and High Courts that the burden of proving the fact that the Petitioner is entitled to the benefits under section 25F of I.D. Act is upon the Petitioner. But, in this case, since the Petitioner has not established this fact with any satisfactory evidence, the claim that he is entitled to the benefits under section 25F is without any substance and, the allegation that this Tribunal has to draw an adverse inference is also without any substance. He relied on the rulings reported in 2005 8 SCC 750 SURENDRA NAGAR DISTRICT PANCHAYAT Vs. DAHYABHAI AMARSINGH in which the Supreme Court has held that *"in the absence of any regular employment of workman, employer is not expected to maintain seniority list of employees engaged on daily wages. As regards non-compliance with section 25 G & H suffice it to say that witness examined by the appellate has stated that no seniority list was maintained by the department of daily wagers. In the absence of regular employment of workmen, the appellant was not expected to maintain seniority list of employees engaged on daily wages and in the absence of any proof by Respondent regarding existence of seniority list and his so called seniority, no relief could be given to him for non-compliance with provisions of Act. The Courts could have drawn adverse inference against the appellant only when seniority list was proved to be in existence and then not produced before the Court. In order to entitle the Court to draw inference unfavourable to the party, the Court must be satisfied that evidence is in existence and could have been proved."* In the same judgement, when the Supreme Court considered the applicability of section 25F and 25B , it has held that *"to claim protection under section 25F(i) there exists relationship of employer and employee; (ii) that he is a workman within the meaning of Section 2(s) of the I.D. Act and (iii) the establishment in which he is employed is an industry within the meaning of the Act and he must have put in not less than one year of continuous service as defined by section 25B under the employer."* and these conditions are cumulative and any of these conditions is missing, the provisions of Section 25F will not be attracted. Relying on this judgement, learned counsel for the Respondent contended that the Petitioner has not established that he is a workman under the Respondent/ Management and he has worked for more than 240 days in a continuous period of 12 calendar months and under such circumstances, he cannot invoke the provisions of section 25F of the Act and therefore, he is not entitled to any relief.

13. As I have already pointed out, I find much force in the contention of the Respondent. In this case, though the Petitioner alleged that he is a workman, he has not established this fact with any satisfactory evidence. Further, he has not established the fact that he had worked for more than 240 days in a continuous period of 12 calendar months and 480 days in a continuous period of 24 calendar months. Further, though he alleged that he has been terminated by the Respondent/Management during the year 1983, he has not stated any valid reason for not approaching the labour authorities within a reasonable, time and he has also not stated reason for electing civil forum for getting compensation and when his civil suit was dismissed by

District Munsif Court, he again approached the labour authorities after a long lapse of time and for this also, he has not given any valid explanation. Under such circumstances, since the inordinate delay was not satisfactorily explained by the Petitioner and merely making repeated representation to the employer will not be regarded as satisfactory explanation, I find no relief can be granted to the Petitioner. Therefore, I find this point against the Petitioner.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled ?

14. In view of my foregoing findings that the Petitioner has approached this forum with inordinate delay and the delay has not been explained satisfactorily, I find the Petitioner is not entitled to any relief. No Costs.

15. Thus, the reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him. corrected and pronounced by me in the open court on this day the 27th June. 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the Petitioner : WW1 Sri R.Krishnamurthy

For the Respondent : MW1 Sri S.Sridaran

Documents Marked :—

For the I Party/Petitioner :—

Ex. No.	Date	Description
W1	20-06-83	Copy of the representation submitted by Petitioner to Respondent/Management
W2	15-02-84	Copy of the representation submitted by Petitioner to Respondent/Management
W3	22-07-84	Copy of the representation submitted by Petitioner to Respondent/Management
W4	10-1-85	Copy of the representation submitted by Petitioner to Respondent/ Management
W5	12-11-86	Copy of the representation submitted by Petitioner to Respondent/Management
W6	19-10-87	Copy of the representation submitted by Petitioner to Respondent/Management

For the II Party/Management :—

Ex No.	Date	Description
M1	10-07-81	Xerox copy of the office order for unpaid apprentice
M2	28-08-87	Xerox copy of the application for appointment
M3	28-08-87	Xerox copy of the letter requesting employment
M4	14-09-87	Xerox copy of the call letter for written test
M5	03-10-87	Xerox copy of the notice by Petitioner's advocate
M6	20-10-87	Xerox copy of the reply to above notice
M7	Nil	Xerox copy of the 2A petition before Labour Office, Tanjore
M8	08-01-01	Xerox copy of the Petitioner's claim in ID 22/2001
M 9	21-08-03	Xerox copy of the 2A petition filed before Assistant Labour Commissioner (Central)
M 10	11-09-03	Xerox copy of the comments filed by Respondent
M 11	Nil	Xerox copy of the acquittance role register for July, 1981 to Dec.1982
M 12	14-08-87	Xerox copy of the notification
M 13	25-09-87	Xerox copy of the rejection letter of Respondent on the Application submitted by Petitioner
M I4	29-09-87	Xerox copy of the draft return letter
M 15	20-09-87	Xerox copy of the order in O.S. No. 670/90
M I6	04-03-98	Xerox copy of the reply to the above petition
M I7	07-09-01	Xerox copy of the written statement filed by Respondent in I.D. No.22/2001.

नई दिल्ली, 15 सितम्बर, 2006

का.आ. 4109.—औद्योगिक विवाद अधिनियम, 1947 (1947का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तुंगभद्रा ग्रामीण बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट (संदर्भ संख्या 23/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/286/2003-आई आर(बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 15th September, 2006

S.O. 4109 .—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tungabhadra Gramin Bank and their workman, which was received by the Central Government on 15-9-2006.

[No. L-12012/286/2003-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 8th September, 2006

Present :
Shri A.R. Siddiqui, Presiding Officer

C.R. No. 23/2004

I Party :

Sh. Somasundar,
173, Kappagal Road,
Bramha Sastry Compound,
Near Masjid,
Bellary-583 103.

II Party :

The Chairman,
Tungabhadra Gramin Bank,
(Head Office), Gandhinagar,
Bellary-583 101.

Appearances :

I Party	:	Shri P.S. Rajgopal Advocate
II Party	:	Shri K.V. Krishna Murthy Advocate

AWARD

The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/286/2003-IR(B-I) dated 22-03-2004 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of Tungabhadra Grameena Bank in imposing the penalty of dismissal from services to Shri Somasundar w.e.f. 11-7-2002 is justified? If not what relief the applicant is entitled to and from which date?"

2. A chargesheet dated 10-11-1999 was issued to the first party workman as under :

CHARGE-I

"You were working as Clerk in our Muslapur branch from 29-5-97 to 3-7-98.

Sri Hanumappa, S/o Shivappa, R/o Obalabandi had availed a crop loan from Muslapur branch under account No. NODP 123/97-98. The said borrower along with one Sri Veerabhadraiah, S/o Malaiah Swamy, R/o Obalabandi had approached a customer of the branch viz., Rajasab (who is having a SB account No. 32) to get a temporary loan of Rs. 13,000/- from him to close the aforesaid loan NODP 123/97-98. As per their request, Sri Rajasab issued a self cheque (withdrawal slip No. 788398) dated 25-04-98 for Rs. 13,000 and requested you to adjust the proceeds to the loan account of Sri Hanumappa (i.e., NODP 123/97-98) and after sanctioning a fresh loan to the said party, credit the like sum out of the loan proceeds to his SB account No. 32. As the liability in the said loan account was Rs. 13,060 you adjusted the proceeds of the aforesaid cheque i.e. Rs. 13,000 and also collected the balance amount of Rs. 60 from the party and closed the aforesaid loan account on 25-04-98.

On 4-5-98 a fresh crop loan of Rs. 14,000 was granted to Sri Hanumappa under account No. NODP 22/98-99. The entire loan amount of Rs. 14,000 was disbursed the same day by crediting the proceeds to his SB account No. 1886 at the first instance and later, by withdrawing the same through a self cheque (withdrawal slip No. 788437) signed by the borrower. On the said day i.e., 4-5-98 the borrower requested you to credit Rs. 13,000 out of his loan proceeds to SB account of Sri Rajasab who had earlier arranged said amount for closure of his previous loan account. Accordingly, you obtained his signature on a blank SB Pay-in-slip and paid him Rs. 760 informing him that you have credited Rs. 13,000 to SB account of Sri Rajasab and deducted Rs. 140 and Rs. 100 towards processing fee and crop insurance respectively. The particulars furnished by you on the back of the withdrawal slip will alo disclose that you have paid Rs. 760 to the borrower by withholding Rs. 13,240 for adjustments as above. But, in fact you had credited Rs. 9,500 only to SB account No. 32 of Sri Rajasab vide Receipt No. 18 on 4-5-98 instead of Rs. 13,000 as falsely informed by you to the aforesaid borrower and misappropriated the balance amount of Rs. 3,500 (i.e. 13,000—9,500).

The records disclose that on the same day i.e. 4-5-98 you have purchased a DD for Rs. 5,000 favouring Prakash Rao Koravi drawn on Canara Bank, Gulbarga. On that day i.e. 4-5-98 there was a withdrawal of only Rs. 5000 from your OD account No. 1. After the said withdrawal, the balance available for withdrawal in your OD account was minimum and even in your SB account also the balance was minimum. Thus, purchasing of a DD for Rs. 5,000 by you by withdrawing the entire amount of Rs. 500 (leaving a minimum balance) from your said OD account and maintaining a minimum balance in your Savings Bank account will support and Corroborate the aforesaid misappropriation of Rs. 3,500 by you.

Sri Rajesh, on verification of his Savings Bank pass book after some days, found that only Rs. 9,500 was credited to his SB account No. 32 on 4-5-98 instead of Rs. 13,000 as informed and requested by him earlier. When he enquired the said matter with you, you informed him that Rs. 9,500 was credited to his SB account No. 32 and the remaining amount of Rs. 3,500 was credited to Ramanna's account inadvertently and it would be settled after reporting of the Manager for duty who was on leave that day.

After Manager's reporting for duty, you called Sri Rajasab, Sri Ramanna, Sri Veerabhadraiah and the aforesaid borrower Sri Hanumappa to the branch and informed them that Rs. 3,500/- was wrongly credited to Sri Ramanna's account instead of to Sri Rajasab's account and it was refuted by Sri Ramanna as he was in no way connected to the said transaction. However, the matter was finally settled among yourselves by deciding to pay/forgo the amount as under :—

(1) Sri Ramanna has to pay Rs. 2,000 to Sri Rajasab.

(2) You have to pay Rs. 500 to Sri Rajasab.

(3) Sri Rajasab has to forgo Rs. 1,000.

Accordingly, Sri Ramanna and yourself paid cash of Rs. 2,000 and Rs. 5000 respectively to Sri Rajasab. In fact Sri Ramanna and Sri Rajasab were not happy with the said settlement as they were made to pay penalty for their no fault.

You have thus misued your official position, misguided the customers, betrayed the trust and confidence reposed in you as Bank employee by the customers and misappropriated Rs. 3,500. Your said acts are detrimental to the interests of the Bank and its customers. You have undermined the dignity of your office and brought disrepute to the Bank. You have not served the Bank honestly and faithfully and thereby committed breach of Regulation, No 19 of Tungabhadra Gramin Bank (Staff) Service Regulations, 1980 and acts of misconduct punishable under Regulation No 30 (1) of Tungabhadra Gramin Bank (Staff) Service Regulations,- 1980.

CHARGE-II

You were working as Clerk at Muslapur branch from 29.5.97 to 3.7.98. On 9.5.98 you were handling cash and on that day a loan of Rs. 15,000 was disbursed to one Sri Basavaraj Killi, S/o Basappa, R/o Muslapur under loan account No. SSI 4/98-99. At the first instance, the loan proceeds of Rs. 15,000 was credited to his SB account No. 1271. Later on the same day, it was withdrawn by tendering a withdrawal slip No 788477 signed by the borrower and out of which (Rs. 15,000) you accounted Rs. 4,000 to KDR account No 50/98-99, Rs. 150/- towards Commission (Processing Fee) account and paid Rs. 10,500. However, you did not credit the remaining balance of Rs 350 to the borrower's SB account No. 1271 as requested by him (i.e. Rs. 15,000, 4,000 + 150+10,500). Instead, you misappropriated it.

The particulars of the adjustments furnished by you on the back side of the Payment Slip No. 2 (withdrawal slip No. 788477) does not say about the accounting of the balance amount of Rs. 350. It has gone unexplained and unaccounted for. This will also support and corroborate the misappropriation of Rs. 350 by you.

You have misused your official position, betrayed the trust and confidence reposed in you as Bank employee by the customer and misappropriated Rs. 350 of the customer. Your said acts are detrimental to the interests of the Bank and its customers. You have not served the Bank honestly and faithfully and thereby committed breach of Regulation No. 19 of Tungabhadra Gramin Bank (Staff) Service Regulations, 1980 and acts of misconduct punishable under Regulation No. 30 (1) of Tungabhadra Gramin Bank (Staff) Service Regulations, 1980.

CHARGE - III

You were working as Clerk at Muslapur branch from 29.5.97 to 3.7.98. As per the request and authority given by the customer Sri Kumarappa, S/o Fakeerappa, R/o Chikka Madinal, on 16.2.98 an amount of Rs. 21,000 was transferred from his SB Account no. 1871 to KDR 111/97-98 of his own depositing for 72 months. However, he was not given the said deposit receipt (KDR 111/97-98) and it was with the branch. After a few days, when the said customer had visited the branch, the Manager was not in the branch and on that day, you obtained his signatures on some of the documents and papers in blank. You did not inform him the purpose of obtaining his signatures on the said documents and papers. However, he was under the impression that they were required to the Bank as he had availed a loan (FML 1/97-98) for purchase of a tractor.

By using aforesaid blank documents and papers signed by Sri Kumarappa, you prepared a Value Secured Loan papers (VSL 23/98-99) i.e., loan application (F-422) and Promote (F-7) for Rs. 17,300/- on 26.6.98 and credited the proceeds to his SB account No. 1871. You instructed Sri Yankanna, Clerk to prepare transfer slips i.e., debit slip of VSL 23/98-99 and credit slip of SB 1871 for Rs. 17300/- and accordingly, he prepared withdrawal slip No. 788601 of SB account 1871 for Rs. 17,300 dated 26.6.98 and you effected payment though aforesaid loan was not sanctioned by the Manager and the said withdrawal slip was not passed for payment by him as required under the guidelines of the Bank. You did not pay the proceeds to the Customer but misappropriated the same. The borrower was unaware of the said transactions and he came to know you alleged foul play only after enquiry by the Manager regarding availment of Value Secured Loan by him.

The following deviations/irregularities committed by you in course of aforesaid dubious transactions will also support and corroborate the misappropriation of Rs. 17,300/- by you :—

(1) The loan application (F-422) is prepared by you and it was not sanctioned by the Manager as required.

(2) The Pronote (F-7) was filled up by you and it was not witnessed by the Manager as required, but it was witnessed by you alone.

(3) The VSL ledger postings are done by you and the entry in the ledger sheet was not duly checked and initialed by the Manager as required.

(4) KDR 111/97-98 was discharged by the customer, but his signature was not verified by the Manager as required.

(5) The transfer slips *i.e.*, debit and credit slips dated 26-06-98 pertaining to VSL 23/98-99 and SB 1871 respectively were not signed by the customer as required. They also do not bear the ledger folio numbers and signature of the Manager thereon.

(6) The withdrawal slip dated 26-06-98 of SB 1871 for Rs 17,300 was prepared by you, but it does not bear "Pay Order" or signature of the Manager. Though it was not passed for payment you have deliberately effected the said payment of Rs. 17,300 and misappropriated the same.

You have thus misused you official position, misguided the customer, betrayed the trust and confidence reposed in you as Bank employee by the customer, violated the systems/procedures and Circular guidelines of the Bank and misappropriated Rs. 17,300 of the customer. These actions of yours are detrimental to the interests of the Bank and its customers. You have undermined the dignity of your office and brought disrepute to the Bank. You have not served the Bank honestly and faithfully.

You have thus acted in contravention to Regulation No. 17 and 19 of Tungabhadra Gramin Bank (Staff) Service Regulations, 1980 and committed acts of missconduct punishable under Regulation No. 30 (1) of Tungabhadra Gramin Bank (Staff) Service Regulations, 1980."

3. The first party workman (hereinafter called the first party) in his claim statement while challenging the Enquiry Proceedings conducted against him as violative of principles of natural justice also challenged the Enquiry Findings holding him guilty of charges of misconduct of perverse and the dismissal order passed against him as unjust and illegal.

4. The Management by its Counter Statement asserted and maintained that Domestic Enquiry conducted against the first party is fair and proper and in accordance with the principles of natural justice and the findings of the Enquiry Officer are based upon sufficient and legal evidence and the dismissal order is legal and justified keeping in view the gravity of misconduct committed by the first party.

5. Keeping in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry findings, on 15-9-2004 following preliminary issue was framed :

"Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?"

6. During the course of the said issue the management examined Enquiry Officer as MW 1 and got marked 6 exhibits at Ex. M-1 to Ex. M-6. First party filed his affidavit evidence without getting marked any documents. After hearing learned counsel for the respective parties this tribunal by order dated 21-12-2005 answered the above said issue in favour of the management holding that Domestie Enquiry against the first party is fair and proper. Thereupon, I have heard the learned counsel for the respective parties on the merits of the case.

7. Now, in the light of the above the question to be gone into would be as to whether the findings of the Enquiry Officer suffered from perversity and if not whether punishment of dismissal passed against the first party is proportionate to the gravity of the misconduct alleged to have been committed by him. The only relevent contention taken by the first party at para 9 of the claim statement with regard to the findings of the Enquiry Officer is to the effect that on a show cause notice issued by the management bank on 28-05-2001 on the Enquiry Officer report, he submitted that the Enquiry Officer has not considered the arguments put forth by him in his defence brief and therefore he requested the Disciplinary Authority to consider his arguments and reject the findings of the Enquiry Officer. As noted above, it was the contention of the management that Enquiry Findings are supported by sufficient and legal, oral and documentary evidence and therefore they suffered from no perversity.

8. Learned Counsel for the first party in his arguments while referring to each of the charge of the misconduct levelled against the first party took the court through oral testimony of various witnesses examined during the course of enquiry and argued that none of the charges of the misconduct levelled against the first party

have been proved. His main contention was that, it is the then branch manager examined before the Enquiry Officer as MW 1, who was the person responsible for the transactions involved in the aforesaid charges of misconduct and that first party being a clerk working in the bank had acted upon the directions given by manager and therefore he cannot be held responsible for misconduct alleged to have been committed by him as levelled in the charge sheet.

9. Whereas, the learned counsel for the management argued that on each and every charge of misconduct levelled against the first party, the customers involved have been examined and their testimony has been very much corroborated by the documents maintained by the bank in the usual course of the business. He submitted as many as nine witnesses were examined including the branch manager and the victims of the transactions involved in the aforesaid charges of misconduct. In support of the oral testimony there were 44 documents were marked and were taken into consideration by the Enquiry Officer along with the 9 documents produced by the first party at Exhibit DE 1 to DE 9. He also referred to the oral testimony of the customers involved in the aforesaid transaction being supported by the documentary evidence. He invited the attention of this tribunal to the enquiry findings in order to suggest that Enquiry Officer has dealt with each and every charge of misconduct levelled against the first party thread bare and exhaustively referring to the oral testimony of the witnesses and the documentary evidence and his findings holding the first party as guilty of the charges being supported by sufficient and legal evidence by no stretch of imagination it can be said to be suffering from perversity. He submitted that the first party has not been able to suggest or point out any legal or factual defect as to how the findings suffered from perversity and his only defence that those transactions had taken place under the instructions of the then manager was rightly rejected by the Enquiry Officer and the Disciplinary Authority as he cannot disown his liability throwing the blame upon his Superior Officer.

10. With regard to the quantum of punishment he submitted that punishment of dismissal was proportionate in the light of the gravity of misconduct committed by the first party.

11. After having gone through the records, I find substance in the arguments advanced for the management as far as the proof of the charges levelled against the first party.

12. A perusal of the enquiry findings, as argued for the management, will make it abundantly clear that the Enquiry Officer has taken lot of care and pain in appreciating oral and documentary evidence produced by the management in order to establish charges of misconduct levelled against the first party. In this case, as noted above, as many as nine witnesses were examined by the management and as many as 44 documents were marked in support of the charges of misconduct levelled against the first party. It can be read from the findings that as far as charge No.1 was concerned on Mr. Hanumappa's (MW 7) complaint investigation was done into the matter and it was found out that the first party had informed him about the credit of Rs. 14000 towards loan proceeds sanctioned to him out of which amount Rs. 13000 was supposed to be credited to Raja Sab's (MW 9) SB A/c No. 32, but only a sum of Rs. 9500.00 was credited to the account of said Raja Sab and balance amount of Rs. 3500.00 was not taken to the account of the said Raja Sab by the first party who dealt with the transaction in question. Therefore taking into consideration the oral testimony of Hanumappa and so also of said Raja Sab the Enquiry Officer rightly came into the conclusion that the first party utilized the amount of Rs. 3500 which was not credited to SB Account No. 32 of Sh. Raja Sab.

13. With regard to Charge No. 2, it was brought on record that on 09-05-1998 there was withdrawal slip made from SB Account No. 1271 of one Basavaraja Killi (MW 5) to the extent of Rs. 15000.00 supported by the document at Ex ME 30. It was found during the course of evidence supported by oral testimony of witness and the documents that a sum of Rs. 14650.00 only was accounted for to the above said SB Account of Basavaraja and sum of Rs. 350.00 remained with the first party not being accounted for in the said SB Account or in any other account of the said customer which amount was the subject matter of above said transaction in favour of said Basavarajal. It was well observed by the Enquiry Officer that notwithstanding the contentions of the defence in this regard particulars of the payment recorded on the back of SB withdrawal slip ME 30 (dt. 09-05-1998) of the said Basavaraja under the hands of the first party would reveal that a payment of total sum of Rs. 14650.00 as against the withdrawal of Rs. 15000.00 was recorded on the face of the said withdrawal slip has been very much established. There was no proper explanation given by the first party with regard to the above said credit nor he made good of this money with the bank. Coming to the third charge against the first party there is again ample oral and documentary evidence to suggest that the first party created the transaction by sanctioning the VSL account No. 23/98 (ME 41) on 26-06-1998 against the KDR No. 111/97 in the name of one Mr. Kumarappa examined as MW 2 in the enquiry. It has come on record that the above said transaction was not done at the instance of MW 2 as could be seen from the connected documents as per Exhibit DE 4, debit slip for Rs. 17300.00 on VSL 23/98 dated 26-06-1998 which does not bear signature of the said depositor. It was also brought on record that the first party did not bring this transaction

to the notice of the depositor at any time and that fact was very much deposed by the said witnesses supported by the documents maintained by the bank. The defence taken by the first party to the effect that on 26.06.1998 MW 1, the then branch management was very much present and the above said transaction did take place to his knowledge and he infact made certain noting for his own reference was rightly rejected by the Enquiry Officer on the ground that the papers concerning to said transaction did not bear the signatures of the manager though those papers were supposed to be signed by him clearing the said transaction. It is further observed by the Enquiry Officer that the defence of the first party that the branch manager verified all the relevant records does not get support from the very papers of the transactions not bearing his signatures. It was rightly observed that the first party acted without authority to him whether in the presence or in the absence of the branch manager. It was also rightly observed that the intention of the first party in not bringing those transactions to the notice of the manager makes it clear that, he wanted to misappropriate the said amount belonging to the customer of the bank playing fraud with the customer as well as with the bank much less breaching the trust reposed in the bank by its clients.

14. The defence taken by the first party that all the aforesaid transactions had taken place by the then branch manager or have taken place under his instructions and directions was again rightly rejected by the Enquiry Officer as well as by the Disciplinary Authority holding that I party cannot disown his responsibility and liability throwing the blame on his officers when he himself was supposed to deal with the transaction honestly and with integrity keeping in view the trust reposed in him by the bank and the clients of the bank. It was rightly observed that the first party's defence that he was acting under the orders of his superiors was not acceptable as he himself was not supposed to carry out any unlawful even if such an order existed. Therefore, having regard to the oral and documentary evidence pressed into service by the management on the aforesaid charges leveled against the first party which have been very much at length discussed and considered by the Enquiry Officer bestowing his utmost attention it can never be said that the findings of the Enquiry Officer holding him guilty of the charges suffered from any perversity. It is neither a case of "No Evidence" or the case "No Legal and Sufficient Evidence" or that the findings of the Enquiry Officer were based upon any hear say evidence or extraneous circumstances not supporting the charges levied against the first party. Therefore, it can be safely concluded that first party has miserably failed to substantiate the contention that the findings of the Enquiry Officer are bad in law suffering from any perversity or arbitrariness. In the result, it is to be further held that charges of misconduct as leveled against first party have been proved by sufficient and legal evidence. Now coming to the quantum of punishment, keeping in view the gravity of the misconduct committed by the first party it cannot be said that the punishment of dismissal was harsh or is disproportionate. However, in this context it is to be noted that the contention of the first party that the then branch manager who was also issued with the similar charge sheet on enquiry was held guilty of the charges of misconduct by the Disciplinary Authority and penalty of dismissal was also imposed upon him. However, he has been reinstated in service with penalty of Reduction in time scale subsequently. This contention of the first party has not been denied by the management. Therefore, keeping in view the fact that the then branch management though found to be guilty of the charges of misconduct, has been reinstated into service with minor punishment, the penalty of dismissal passed against the first party appears to be unjust and discriminatory in nature. In the result. it appears to me that ends of justice will be met if the first party is dealt with punishment of compulsory retirement from service in place of dismissal order passed against him so as to allow him to get his terminal benefits and other service benefits provided under the scheme of compulsory retirement. Hence, the following award :

ORDER

The punishment of dismissal passed against the first party is hereby converted into punishment of his compulsory retirement from service from the date of the passing of the impugned punishment order. No orders to costs.

Reference stands dismissed. No order to cost.

(Dictated to L D C, transcribed by him, corrected and signed by me on 8th September, 2006)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 15 सितम्बर, 2006

का.आ. 4110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई सी आई सी आई बैंक लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 112/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/70/2005-आई आर(बी-I)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 15th September, 2006

S.O. 4110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 112/2005) of the Central Government Industrial Tribunal/ Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ICICI Bank Ltd., and their workman, which was received by the Central Government on 15-9-2006.

[No. L-12012/70/2005-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 13th June, 2006

Present: K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 112/2005

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of ICICI Bank Ltd. and their workmen)

BETWEEN

Sri R. Subbiah Meiyappan : I Party/Petitioner

AND

The Branch Manager, ICICI Bank Ltd. Ponnamaravathi, Pudukottai : II Party/Mamagement

APPEARANCE:

For the Petitioner : Party in person

For the Management : M/s. S. Ramasubramaniam & Associates, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No.L-12012/70/2005-IR(B-I) dated 21-10-2005 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

> "Whether the action of the management of ICICI Bank Ltd. in imposing the penalty of dismissal from service on Shri R. Subbiah Meiyappan w.e.f. 18-9-2002 is legal and justified and proportionate to the offence? If not, to what relief he is entitled to and from which date ?"

2. After the receipt of the reference, it was taken on file as I.D. No. 112/2005 and notices were issued to both the parties and I Party/Petitioner filed Claim Statement in person and II Party/Management entered appeared through their advocates and filed Counter Statement.

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner was appointed as a clerk in Bank of Madura Ltd. on 15-7-81 at Madurai main branch, where he was working for ten years and lastly, he was transferred to Ponnamaravathi branch of the Respondent/ ICICI bank. Bank of Madura has become ICICI Bank P. Ltd. The Petitioner has worked for more than 21 years without any charge. While so, the Petitioner was charged by 1st Respondent that the Petitioner has misappropriated amount of Mrs. M. Annapoorani in the S.B. Account No.76635. The charge is that the Petitioner has taken a sum of Rs.16,000 from the S. B. Account No.76635 of Smt. Annapoorani without her consent by presenting cheques and obtained forged signature of the said Mrs. Annapoorani. The enquiry was conducted and he was dismissed from service. Against that order, the Petitioner preferred an appeal before the 3rd Respondent and the same was rejected on 12.12.2002. But the order passed by the authorities is against the law and weight of evidence and probabilities of the case. The account holder namely Smt. Annapoorani has not given any complaint against the Petitioner. The Senior Manager of ICICI Bank, Ponnamaravathi branch by force and coercion obtained the letter dated 5-6-2002 and the said letter was not written by the Petitioner, therefore, it is not valid in law. The enquiry conducted by the Respondent/Bank is not in a fair and proper manner and according to law. The Petitioner was not allowed to represent through his representative. The alleged cheques were not signed by the Petitioner. Enquiry Officer conducted the enquiry in one sided manner and no opportunity was given to him to disprove the charges. Therefore, the enquiry has become null and void and therefore, he prays this Tribunal to set aside the order passed by the Respondent/Management and to direct them to reinstate him into service with consequential benefits.

4. As against this, the Respondent in its Counter Statement contended that the Petitioner has suppressed the material facts to this Tribunal. In order to gain uncalled sympathy and cause injustice to the Respondent. The Petitioner was employed in the erstwhile Bank of Madura and in March, 2001 the Bank of Madura merged with Respondent/Bank by virtue of which the name was changed to ICICI Bank Ltd. The Petitioner lastly served as a clerk in Regional Office, Trichy after being transferred from Ponnamaravathi branch. During the course of his employment, the Petitioner had misappropriated funds of Respondent/ Bank customer for which he was issued with a charge sheet and a domestic enquiry was duly conducted, giving an opportunity to the Petitioner to prove his case. The Petitioner repeatedly admitted all the charges mentioned in the charge sheet and also did not opt to choose to file any document. Based on documentary evidence and based on the facts that have come in enquiry proceedings, the Disciplinary Authority dismissed the Petitioner from service of the bank on 20-9-2002. On 5-6-2002 the customer Smt. Annapoorani came to the branch and handed over passbook with a request to transfer a

sum of Rs.15000 which is lying in her S.B. account to a new term deposit account in her name. On verification, it was found that there was no adequate balance amount available in her account as per pass book and it was also found that Smt. Annapoorani has withdrawn the amount of Rs. 6300 on 3-12-01 and Rs. 5000 on 15-12-01 and Rs. 1900 on 9-1-2002 by depositing the cheques bearing Nos. 781937, 781989, 781183 and on further verification, the signature found in cheques were mismatching with the specimen signature. Similarly, cash remittance in the passbook of Smt. Annapoorani were mentioned with initials and not credited in the account. On verification of all these materials, it was found that the Petitioner forged the signature of Smt. Annapoorani and withdrew amounts and simply entered in the passbook to show that these amounts had been remitted in her account, thus making her belief that the amounts handed over by her have been duly credited into her account. On enquiry, the Petitioner accepted the illegalities and misappropriation committed by him and promised to remit the said amounts. He also submitted a letter dated 5-6-2002 wherein he admitted the misappropriation and informed that he had done the same due to financial crisis and he also agreed to repay the same. The enquiry was held in a fair and proper manner and the Petitioner has admitted the charge levelled against him. The Petitioner after having received the copy of documents and verified it and gave no reply. He has not produced any oral or documentary evidence before the enquiry when he was afforded the same. Even after the Enquiry Officer's report and even after the lapse of one month's time, the Petitioner has not submitted any comments on the Enquiry Officer's report. Therefore, Disciplinary Authority passed the final order dated 10-9-2002. The Petitioner preferred an appeal before Appellate Authority only on the ground that he has served under Respondent for 22 years and requested to impose some alternate punishment. The Petitioner's act of misappropriation of public money and degradation of reputation of Respondent does not warrant any sympathy on him. The punishment imposed on the Petitioner is appropriate and does not warrant any interference by this Tribunal. Irregularities committed by the Petitioner are not only serious but also not ignorable in nature so much so that it has exposed the bank's funds as well as reputation to unwarranted risk. The Respondent/ Bank has lost confidence on the Petitioner and cannot retain or reinstate the Petitioner who had misappropriated the public funds. Hence, for all these reasons, the Respondent prays to dismiss the claim with costs.

5. In these circumstances, the points for my consideration are :—

(i) "Whether the action of the Respondent/ Management in imposing the penalty of dismissal from service on the Petitioner is legal and justified ?"

(ii) "To what relief the Petitioner is entitled?"

Point No. 1:

6. Even though the matter is pending from 22.11.2005, the Petitioner has not appeared before this Court for giving evidence till 7-6-2006. In spite of adjourning this matter for several hearings for the appearance of the Petitioner as well as to conduct the case, the Petitioner never appeared before this Court, therefore, he was called absent and set ex-parte on 7-6-2006. Though the Petitioner alleged that he was not given any opportunity in the domestic enquiry and the letter alleged to have been given has not been given by him in due course and it was obtained by coercion and force, the Petitioner has not established this fact that letter dated 5-6-2002 was obtained by the authorities of Respondent by coercion and by force. Further, there is no evidence in this case to establish this fact. It is the allegation of the Respondent that the Petitioner has admitted his guilt before the domestic enquiry and the Disciplinary Authority after going through the records have imposed the punishment. It is the further contention of the Respondent that since the, Petitioner has misappropriated the amount of customer and since the Respondent/Bank has lost confidence on the Petitioner, they cannot retain the Petitioner, who had misappropriated the public funds. Under such circumstances, it is the bounden duty of the Petitioner to establish that he has not misappropriated the alleged amount of the customer and the letter dated 5.6.2002 was obtained by the bank by coercion. But as I have already stated that the Petitioner has not appeared before this Court to establish thus fact. As such, I find this point against the Petitioner.

Point No. 2 :

The next point to be decided in this case is to what relief the Petitioner is entitled ?

7. In view of my foregoing findings that the action of the Respondent/Management is legal and justified, I find the Petitioner is not entitled to any relief. No Costs.

8. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13 June, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :
On either side : None

Documents Marked :
On either side : Nil

नई दिल्ली, 15 सितम्बर, 2006

का.आ 4111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साउर्थन रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों

के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 421/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-41012/90/2004-आई आर(बी-I)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 15th September, 2006

S.O. 4111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 421/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway., and their workman, which was received by the Central Government on 15-9-2006.

[No. L-41012/90/2004-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thusday, the 8th June, 2006

Present: K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 421/2004

(In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Southern Railway and their workmen)

BETWEEN

Sri Shiya Ram Chourasiya : I Party/Petitioner

AND

The Chief Administrative Officer (Constn.), Southern Railway, Chennai : II Party/Management

APPEARANCE:

For the Workman : M/s. R. Vaigai & Anna Mathew, Advocates

For the Management : M/s. G. Kalyan, Advocate

AWARD

The Central Government, Ministry of Labour vide Order No.L-41012/90/2004-IR(B-I) dated 08-10-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :

"Whether the action of the management of Chief Administrative Officer (Construction), Southern Railway, in terminating the services of Shri Shiya Ram Chourasiya with effect form 31-12-2003 is justified ? if not, what relief he is entitled to ?"

2. After the receipt of the reference, it was taken on file as I.D.No.421/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively .

3. The allegations of the Petitioner in the Claim Statement are briefly as follows:

The Petitioner was appointed by the Chief Administrative Officer, Chennai as substitute Bungalow Lascar by an order dated 17-10-2002 to work in the bungalow of Sri G.L. Goel, Deputy Chief Engineer, Construction at Trivandrum and he joined duty on 30-10-2002. The Petitioner worked in the bungalow of Mr. G.L.Goel until 17-10-2003 and the said officer was transferred and left for Jaipur on 17-10-2003. Thereafter, the Respondent directed the Petitioner to work in the O/O. Chief Administrative Officer, Construction, Chennai w.e.f. 4-11-2003. But for the reasons best known to the Respondent an order dated 30-12-2003 was issued by Chief Administrative officers by which the services of the Petitioner were terminated w.e.f. 30-12-2003. The Petitioner raised a dispute before the labour authorities in which the Respondent filed remarks, wherein he has stated that the officer namely Mr. G.L.Goel has sent a letter to Chief Personnel Officer, Chennai and to Chief Engineer, construction. Trivendrum recommending that the services of Petitioner should be terminated w. e. f. 17-10-2003, since the said officer did not require the services of the Petitioner. It was further stated that the Petitioner was unauthorisedly absented for a period of 42 days and as per circular dated 11-12-2003, since the Petitioner had not completed one year of service, he was terminated w.e.f. 30-12-03. But the Petitioner has not issued with memo or charge sheet for the alleged unauthorised absence. Further, the said officer Mr.Goel has kept all the original certificates of the Petitioner and he used to threaten the Petitioner from time to time stating that he would not return the certificates to him. He has also beaten and abused the Petitioner on number of occasions and also retained the Petitioners salary and has given him only Rs.500/ - and stated that money would be given to him whenever he needed. Therefore, he made a complaint to higher officials. Further, it is learn by the Petitioner that higher official namely the Chief Engineer has also advised that the Petitioner's services should not be terminated without following discipline and appeal rules. The Respondent has not followed the provisions of Section 25G and 25H of I. D. Act and also not seek permission under Section 25N of the I.D. Act. Hence, the retrenchment of the Petitioner is illegal and the termination of the Petitioner's service is arbitrary and unjust. The Petitioner is a workman as defined under Section 2(s) of the I.D. Act and he is entitled to all rights under I.D. Act. Since the impugned termination the case of retrenchment but a punitive action, it is illegal and unjust. Hence, for all these reasons, the Petitioner prays that an award may be passed holding that the termination of the services of Petitioner w.e.f. 30-12-2003 is illegal and consequently direct the

Respondent/Management to reinstate him into service with continuity of service, back wages and all other attendant benefits.

4. As against this, the Respondent in its Counter Statement contended that the post of Bungalow Lascar (peon) is to do domestic service/work in the residence of officer. It is the poste of choice of the officer, on whose recommendation; the candidate will be appointed and as such it is not governed by normal recruitment rules. Like that, the Petitioner was engaged in the residence of Mr. G.L. Goel, Deputy Chief Engineer at Trivandrum. The services of the Petitioner are purely temporary in nature and at any time the Petitioner's services are liable to be terminated from duty within one year of service, if found unsatisfactory or if the officer under whom is transferred to other railways. Section 2(j) of the I.D. Act under which the item industry does not cover domestic service, therefore, the Petitioner cannot invoke the provisions of I.D. Act. The Petitioner is not a workman as defined under section 2(s) of the 1.0. Act and cannot invoke the provisions of I.D. Act. It is well settled that peons and khalasis are not railway employees and their services being contractual in nature would be terminated at any time so long as they did not acquire temporary status. Further, it is well settled that it is not bad or illegal for want of notice before termination. Therefore, the Petitioner is not entitled to any relief since he is not a railway servant and his services can be terminated on the ground of unsatisfactory work without holding any departmental enquiry. The officer who engaged the Petitioner has been transferred to North Western Railway and based on the letter dated 10-11-2003 given by Sri G.L. Goel to the department to terminate the services of the Petitioner w.e.f. 17-10-2003 and his services were terminated w.e.f. 30-12-2003 as per the conditions laid down in the appointment order. Therefore, the Petitioner's service has been terminated purely on the basis of the terms of contract and his service was not terminated for his unauthorised absence or for any other reason. Keeping the Petitioner's salary and certificate is the personal affairs between Sri Goel and the Petitioner and these allegations were made only as an afterthought. Since it is termination simpliciter, it does not amount to termination for misconduct, and hence the Petitioner is not entitled to reinstatement and provisions of Sections 25G and 25H of the I.D. Act are not applicable to the Petitioner. The allegation with regard to issue of charge sheet and holding enquiry is immaterial, as the Petitioner is governed by the terms of the contract. The termination of the Petitioner did not amount to retrenchment. Hence, it does not attract the provisions of Section 25G and 25H of the I.D. Act. Hence, for all these reasons, the Respondent prays to dismiss the claim of the Petitioner.

5. Again, the Petitioner in his rejoinder alleged that he has worked for more than 240 days in a continuous period of 12 calendar months and it is false to allege that the employment after 17-10-2003 is only a stop gap arrangement or otherwise. The Respondent has stated before the Assistant Labour Commissioner (Central) that the Petitioner was unauthorisedly absented for 42 days, but now they have stated in the Counter Statement that he was terminated only because the officer, with whom the Petitioner was employed, was transferred amounts to approbating and reprobating and in any way, the termination is illegal. The allegation made by the Respondent with regard to keeping certificates and salary is personal affairs is not sustainable. Hence, for all these reasons, the Petitioner prays that an award may be passed in his favour.

6. In these circumstances, the points for my consideration are :—

(i) "Whether the action of the Respondent/ Management in terminating the services of the Petitioner with effect from 31-12-2003 is justified ?"

(ii) "To what relief the Petitioner is entitled ?"

Point No. 1 :—

7. The admitted facts in this dispute are that the Petitioner was appointed suhstitute per bungalow lascar as per appointment order dated 17-10-2002 under EX. W1 and he has joined duty on 31-10-2002 under original of EX. W2. While so, on 30-12-2003 the termination order was issued to him under the original of EX. M3.

8. Learned counsel for the Petitioner contended that even though the Petitioner was appointed as temporary lascar, no proper domestic enquiry was conducted to prove the charges, if any, against the Petitioner. Even though it is alleged that he was terminated from service for unsatisfactory service, it is not established before any domestic Tribunal that the services of Petitioner was unsatisfactory, which is in violation natural justice. Since the Railway is an industrial establishment for which chapter VB applies and therefore, the conditions precedent before retrenchment were not followed. Further, the Petitioner has worked for more than 240 days in a continuous period of 12 months and without following the mandatory provisions, the order of termination has been passed, which is illegal, void *ab initio*.

9. In this case, on the side of the Petitioner, the Petitioner was examined as WW 1 and he has produced documents Ex. W1 to W10 and Ex. W1 is the copy of appointment order issued to Petitioner, Ex. W2 is the copy of letter given by Petitioner on reporting for duty, Ex. W3 is the copy of order dated 31-10-2002 fixing the pay scale of the Petitioner, Ex. W4 is the copy of order dated 16-12-2003 posting the Petitioner as Lascar at Chennai, Ex. W5 is the copy of termination order dated 30-12-03, Ex. W6 is the copy of representation dated 7-1-2004 given by the Petitioner, Ex. W7 is the 2A petition filed by Petitioner before conciliation officer and Ex. W8 is the remarks filed by Respondent before conciliation officer and Ex. W9 is the copy of rejoinder filed by Petitioner dated 7-4-2004 and Ex. W10 is the copy of letter sent by Chief Engineer (Construction), Southern Railway to Chief Personnel Officer which was sent for by the Petitioner hy filing a

petition. On the side of the Respondent one Mr. G.S. Kumar, Personnel Inspector in the O/o. Chief Administrative Construction, Southern Railway was examined as MWI and on the side of the Respondent copy of the letter of Mr. G. L. Goel to CAO was marked as Ex. M1. Copy of para 1502(1) of IREM is marked as Ex. M2. Ex. M3 is copy of termination order dated 30-12-2003. Ex. M4 is the copy of order of CAT in O. A. No. 228/88 . Ex. M5 is the copy of order dated 12-2-99 passed by CAT, Principal Bench, New Delhi. Ex. M6 is the copy of letter from Mr. G.L. Goel to CAO, Ex. M7 is the copy of representation given by Petitioner to Divisional Personnel Officer, Trivendrum.

10. Learned counsel for the Respondent contended that appointment of bungalow lascar is not governed by normal recruitment rules. The Petitioner was engaged in the residence of Sri G.L. Goel, Deputy Chief Engineer, Trivendrum and his services in the post is purely temporary in nature and at any time the Petitioner's services are liable to be discharged from duty within one year of service from the date of engagement without assigning any reasons, if found unsatisfactory or the officer under whom is transferred to other railways as per Ex. M1. Since the services of the Petitioner is not of permanent in nature and it can be dispensed with subject to compliance of statutory or contractual requirement and his status is not higher than that of a temporary workman or a probationer. Since the Petitioner was appointed as per order Ex. W1 which is a contractual one, as per the appointment order, his services can be terminated and he cannot claim regularisation. Further, he has argued that the Petitioner's appointment made in violation of statute and in particular, ignoring the minimum educational qualification and other essential qualification, the same is illegal and such illegality cannot be cured by taking recourse to regularisation. It is his further argument that completion of 240 days of continuous service of one year may not by itself a ground for directing an order of regularisation. It is also not the case of the Petitioner that he was appointed in accordance with rules and regulations and therefore, he is not entitled to any relief claimed by him. In this case, the Petitioner has not performed his duties to the satisfaction of the officer, and as per the terms and conditions of Ex. W1, he was discharged. It is his further argument that the Respondent Management is not an industry and the Petitioner is not a workman as defined under Section 2(s) of the I.D. Act and therefore, he cannot invoke provisions of I. D. Act. Further, the Supreme Court and High Courts have held that in the case of probationer or a temporary employee, who has no right to the post, such a termination of service is valid and does not attract provisions of Article 311 of Constitution and they can be discharged in terms of their contract. Therefore, on any count, the Petitioner is not entitled to any relief.

11. But, as against this, the learned counsel for the Petitioner argued that the contention that Railways is not an industry and the Petitioner is not entitled to any relief under the provisions of I. D. Act is without any basis. It is well settled by the Supreme Court even in AIR 1964 SC 737 M/s. J. K. COTTON SPINNING & WEAVING MILLS CO. LTD. *Vs.* LABOUR APPELLATE TRIBUNAL OF INDIA, wherein Three Members Bench of Supreme Court has held that "*Section 2(s) of the I.D. Act* mentions 'persons employed in any industry' and this expression cannot be construed literally and it includes persons employed in operations incidental to main industry and therefore, the Malis engaged or looking after the gardens of any industrial concern are workmen under Section 2(s) of the Act. Since the Malis must be held to be engaged in operations which are incidentally connected with main industry carssied on by the mills and were therefore, workmen within section 2(s) ad *Section 2 of U.P. Industrial Disputes* Act." She further contended that in rulings reported in 2000 (3) SCC 239 V.P. AHUJA *Vs.* STATE OF PUNJAB AND OTHERS, the Supreme Court has held that *"probationer like a temporary servant is also entitled to certain protection and his services cannot be terminated arbitrarily or punitively without complying with the principles of natural justice, invoking terms and conditions of his appointment which permitted termination without notice."* Learned counsel for the Petitioner contended that in that case appellant Mr. Ahuja was appointed as Chief Executive in the establishment of Punjab Co-operative Cotton Marketing & Spinning Mills Federation Ltd. and one of the terms of his appointment was that he would be on probation for a period of two years, which could be extended further at the discretion of management and it further provided that during the probation period, management shall have right to terminate his services without notice and his services were terminated by an order dated 2-12-98 and questioning the order, the Supreme Court has held as above that termination of service without following principles of natural justice is not valid in law. Further, it held that *"a probationer like a temporary servant is also entitled to certain protection and his services cannot be terminated arbitrarily nor can those services be terminated in a punitive manner without complying with principles of natural justice."* In this case, it is admitted that the Petitioner was employed as a temporary bungalow lascar. Even assuming for argument sake that his services can be terminated, it cannot be done without, following principles of natural justice by ordering domestic enquiry. Learned counsel for the Petitioner argued that in this case, it is alleged that services of the Petitioner were not satisfactory to his superior namely Mr. G. L. Goel, but it was not established before this Tribunal that as to how his services were not satisfactory to his superiors. It is admitted by MW1 that no memo was issued to the Petitioner for his alleged unsatisfactory service. Under such circumstances, the order of termination issued by the Respondent/Management is not valid in law. Further, in this case, even though it is alleged that within one year, the Petitioner's services can be terminated without any notice, but the termination notice was issued only after one year, therefore, on that ground also, it is not valid in law. It is her further contention that even assuming for argument sake that the Petitioner has received retrenchment compensation

in a ruling reported in 2000 3 SCC 588 NAR SINGH PAL Vs. UNION OF INDIA AND OTHERS, the Supreme Court has held that *"acceptance of retrenchment compensation by the employee could not validate such order of termination and the termination of service on the ground of assaulting the gateman without holding regular enquiry is not valid."* Learned counsel for the Petitioner further contended that in 1992 I LLN 150 K. RAJENDRAN Vs. DIRECTOR (PERSONNEL) PROJECT & EQUIPMENT CORPORATION OF INDIA LTD., NEW DELHI wherein the Madras High Court has that *"where an employee was employed as messenger and on the ground of non-renewal of contract even though work for which he was employed continued to exist is a termination and further held in such cases, employer cannot use terms of employment as a device to take it out of sub-clause (bb) of Section 2(00) and termination on such grounds is retrenchment within the meaning of Section 2(00)"* Learned counsel for the Petitioner further contended that even the Central Administrative Tribunal, Madras in 1990 14 ATC 106 C.R. HARIHARAN Vs. CHIEF PERSONNEL OFFICER AND OTHERS held that *"substitute bungalow lascar/peon terminated from service without giving any sufficient notice is not valid"* and further held that *"he is a workman and termination service amounts to retrenchment and such order of termination is invalid."* Therefore, in this case, the Petitioner was terminated without any enquiry or without giving any opportunity. Under such circumstances, the order of termination is illegal.

12. But, again, learned counsel for the Respondent contended that in 2005 2 LLN 952 MANAGER, RESERVE BANK OF INDIA Vs. S. MANI AND OTHERS wherein Three Members Bench of Supreme Court has held that *"Ticca Mazdoors namely workmen engaged intermittently being not permanent in nature can be dispensed with subject to compliance of statutory or contractual requirements."* In this case as per Ex.W1 since the Petitioners' service was not satisfactory, he has been terminated from service and it cannot be said as illegal. It is also the contention of the learned counsel for the Respondent that it is well settled that appointment made in violation of mandatory provisions, of statute and particularly, ignoring the minimum educational qualification and other essential qualification would be wholly illegal. Since the Petitioner was engaged as bungalow lascar which is made in violation of mandatory provisions, he cannot claim any benefits. Learned counsel for the Respondent further contended that in 2005 II LLN 526 G. GANESAN AND OTHERS Vs. GOVT. OF TAMIL NADU, HOUSING AND URBAN DEVELOPMENT DEPARTMENT, wherein the Division Bench of Madras High Court has held that *"daily wagers requirements of regularisation depends on service rules and there is no right to get it unless it is provided for in the rules and the appellants being temporary appointees have no right to continue in service"* and it further held that *"appointments* de hors *rules are invalid as they violated public policy as well as Article 16 of Constitution of India."* Learned counsel for the Respondent further relied on the rulings reported in 2004 4 LLN 8 K. UMARANI Vs. REGISTRAR OF CO-OPERATIVE SOCIETY AND OTHERS. Relying on this judgement, learned counsel for the Respondent contended that the Supreme Court in this case has held that *"Regularisation, in. our considered opinion, is not and cannot be the mode of ,recruitment by any State within the meaning of Article 12 of the Constitution of India or anybody or authority governed by a Statutory Act or the rules framed thereunder. It is also well settled that an appointment made in violation of mandatory position of the statue and in particular ignoring minimum educational qualification and other essential qualifications would be wholly illegal and such illegality, cannot be cured by taking recourse* to *regularisation."* Learned counsel for the Respondent further relied on the rulings reported in 2004 (4) LLN 744 EXECUTIVE ENGINEER, P. ENGINEERING DIVISION AND ANOTHER Vs. DIGAMBARA RAO in which the Supreme Court has held that *"it may not be out of place to mention that completion of 240 days of continuous service in a year may not by itself be a ground for directing an order of regularisation."* It is his further contention that in this case since the officer who engaged him Mr. G. L. Goel has been transferred and further the said officer who has requested the administration under EX.M6 to transfer the Petitioner along with him and since there is no provision to transfer the Petitioner, his request was rejected and the Petitioner's service was terminated as per the terms of the contract. No doubt, the Petitioner alleged that the officer has retained the certificates and has also not paid salary. But, these allegations have not been brought to the notice of the Respondent/Management immediately and therefore, it is only an afterthought and these allegations were made only to create sympathy in the minds of this Court. Learned counsel for the Respondent further contended that Central Administrative Tribunal, Principal Bench has held that *"as a general principle, it cannot be laid down after putting 120 days of continuous service, a bungalow peon requires temporary status also does not arise for reason given* in *the previous paragraph of the judgement. He acquires temporary status on completion of such a period of continuous service as may be prescribed by the General Manager of railways under which he works and which* is *current on the date of his employment as a Bungalow peon."* In this case, no doubt, the concerned employee has written a letter to the Chief Personnel Officer that the Petitioner has completed 120 days and he attained the temporary status, but on that ground, we cannot take it as he acquired the temporary status and it cannot be argued that his services cannot be terminated without following disciplinary rules. He further relied on the rulings reported in 2005 2 LLN 526 G. GANESAN Vs. SECRETARY, GOVT. OF TAMIL NADU wherein the Madras High Court has held that *"regularisation depends on service rules and there is no right to get it unless it is provided for in the rules."* In this case, since the Petitioner was appointed on contractual

basis and since within the contractual period, he has been terminated, it cannot be questioned before this Tribunal and as such, the Petitioner not entitled to any relief.

13. No doubt, the arguments advanced by the learned counsel for the Respondent has some force, but I find there is no point In the contention because even assuming for argument sake that the Petitioner is a temporary servant, but without giving an opportunity to the Petitioner about his unsatisfactory service, the Respondent cannot terminate the services of the Petitioner. Though the learned counsel for the Respondent relled on the rulings of Supreme Court, High Court, those rulings are with regard to regularisation of temporary employees. But, in this case, the Petitioner has not claimed for regularisation, on the other hand, in this case, we have to see whether the order of termination passed by the Respondent/ Management is just and legal. Since the Petitioner has established the fact that he has worked for more than 240 days in a continuous period of 12 calendar months and since the Petitioner has established that no domestic enqulry was held against his alleged unsatisfactory work, I find the order of termination passed by the Respondent is not valid. Further, in this case, the letter sent by Chief Engineer (Construction) to Chief Personnel Officer is to be looked into in which he has dearly stated that the Petitloner has made a representation which contains serious allegations against Sri G.L.Goel and the Petitioner alleged that he has not been given rest even on Sundays and was made to work for 24 hours and further stated that he was beaten and abused on number of occasions and he was paid only Rs.500 per month out of his salary and the balance amount was kept by Mr.Goel and that money would be given to him if he needed. But the Petitioner alleged that he refused to take Petitioner along with him when he was transferred to Jaipur. It is further stated in that letter that Mr. Goel took entirely a different stand and wanted the services of the Petitioner to be terminated retrospectively from 17-10-2003 and the Chief Engineer advised that without following discipline and appeal rules, the services of the Petitioner cannot be terminated and under such circumstances, I find this point against the Respondent.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

14. In view of my foregoing findings that the order of terminating the services of Petitioner is not justified, I find the Petitioner is entitled to the relief of reinstatement. Therefore, I direct the Respondent to reinstate the Petitioner into service and he is entitled to all other attendant benefits. With regard to back wages, I find the Petitioner is entitled to only fifty percent of the back wages and this will meet the ends of justice. No Costs.

15. Thus, the reference is answered accordingly.

(Dictated to the P. A., transcribed and typed by him, corrected apd pronounced by me in the open court on this day the 8th June, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :

For the Petitioner : WW 1 Sri Shiya Ram Chourasiya

For the Respondent : MWI Sri G. S. Kumar

Documents Marked :—

For the I Party/Claimant :

Ex.No.	Date	Description
W1	17-10-02	Xerox copy of the appointment order issued to Petitioner
W2	31-10-02	Xerox copy of the letter of Petitioner on reporting for duty
W3	31-10-02	Xerox copy of the order fixing pay scale of Petitioner
W4	16-12-03	Xerox copy of the order posting the Petitioner to work as Lascar at Chennai
W5	30-12-03	Xerox copy of the termination order
W6	07-01-04	Xerox copy of the representation of the Petitioner
W7	11-02-04	Xerox copy of the 2A petition filed by Petitioner
W8	30-03-04	Xerox copy of the remarks filed by Respondent
W9	07-04-04	Xerox copy of the rejoinder filed by Petitioner
W10	04-12-03	Xerox copy of the office correspondence regarding Complaint of the Petitioner

For the II Party/Management :—

Ex.No.	Date	Description
M1	10-11-03	Xerox copy of the letter from G. L. Goel to CAO
M2	Nil	Xerox copy of the para 1502(1) of IREM
M3	30-12-03	Xerox copy of the termination order
M4	24-01-88	Xerox copy of the order in O. A. No.228/88
M5	12-02-99	Xerox copy of the order of Central Administrative Tribunal Principal Bench, New Delhi.
M6	22-09-03	Xemx copy of the inter office correspondence regarding Transfer of bungalow peon attached to Dy. CE/ CN/TVC
M7	22-10-03	Xerox copy of the letter from Petitioner to Respondent

नई दिल्ली, 15 सितम्बर, 2006

का.आ. 4112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चेन्नई के पंचाट (संदर्भ संख्या 409/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/114/2004-आई आर(बी-I)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 15th September, 2006

S.O. 4112.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 409/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 15-9-2006.

[No. L-12012/114/2004-IR (B–I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 9th June, 2006

Present : K. JAYARAMAN, Presiding Officer

INDUSTRIAL DISPUTE No. 409/2004

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their workmen]

BETWEEN

1. M. Sambandam (deceased)	:	I Party/Petitioners
2. Susila (deceased)		They are impleaded as Petitioners vide I.A. Order No. 202/2005 dt. 17-06-2005 of this Tribunal
3. Y. Malathi		
4. Y. Manjuia		
5. S. Karunanidhi		
6. K. Anjugam		
7. M Govindammal		

AND

The Chief General Manager, State Bank of India, Chennai.	:	II Party/Management

Appearance :

For the Petitioners	:	Mr. R. Arumugam, Advocate
For the Management	:	M/s. P. D. Audikesavalu, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-12012/114/2004-IR (B-I) dated 20-08-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mentioned dispute is as follows :—

"Whether the dismissal of Shri M. Sambandam by the management of State Bank of India is legal and justified? If not to what relief the workman is entitled?"

2. After the receipt of the reference, it was taken on file as I.D. No. 409/2004 and notices were issued to both the parties and both the parties entered appearance through their advocates and filed their Claim Statement and Counter Statement respectively. After filing of the Claim Statement, the 1st Petitioner namely Sambandam died and LRs of 1st Petitioner namely Petitioners 2 to 7 are impleaded and they have filed a separate claim statement.

3. The allegations of the Petitioners in the Claim Statement are briefly as follows :—

The 1st Petitioner died on 29-10-2004 leaving Petitioners 2 to 7 as his legal heirs. The 1st Petitioner was appointed as part time messenger-cum-watchman in the services of Respondent/Bank at Papanasam branch on 14-7-1971 and subsequently, he was confirmed and promoted to clerical cadre w.e.f. 1-4-1982. The 1st Petitioner had put in altogether around 30 years of service. While so, he was placed under suspension for certain alleged lapses on 20-4-2000. Subsequently, he was called for explanation and even before that he has admitted the lapses and also made good the loss sustained by the bank. Two charges were framed against him alleging that he had misappropriated the total sum of Rs. 35,393. An enquiry was conducted by the Respondent/Management and in that enquiry, the Enquiry Officer ultimately found that the charges framed against the 1st Petitioner were proved and established. After following the procedure, the Disciplinary Authority has imposed the punishment of dismissal without notice by his order dated 28-1-2002. The 1st Petitioner preferred an appeal before the Appellate Authority and Appellate Authority rejected his appeal on 11-11-2002. While proposing and confirming the punishment of dismissal without notice, the Disciplinary Authority has not considered the 1st Petitioner's past record for more than 30 years, which was unblemished. The order of Appellate Authority indicates his bias towards him and his conclusions were not based on evidence on record. No evidence or material was produced and the charges in question were not proved, though the 1st Petitioner has admitted the same. The punishment awarded to 1st

Petitioner is not only excessive but also to disproportionate to the reported lapses. The Disciplinary Authority failed to discuss the charges individually and imposed separate punishment for each charge. For similar nature of lapses, the Respondent has awarded lesser punishment of discharge from service. The 1st Petitioner was totally sick and bed ridden at the time of enquiry and due to heart malfunction, failing vision and chronic advanced filariasis and hypertension he died. Therefore, this is the fit case to invoke Section 11A of the Act for imposing lesser punishment to save his family. Hence, the Petitioners 2 to 7 prays for an award modifying the dismissal order and direct the Respondent/Bank to pay compensation.

4. As against this, the Respondent in its Counter Statement contended that 1st Petitioner while he was working as cashier in Papanasam branch of Respondent/ Bank during October, 1999 to April, 2000, he received amounts aggregating to Rs. 35,393 in 29 instances at cash receipt counter from various Govt. departments for credit of Govt. account and issued remitter's copies of challan branded with cash received stamp signed by him and assigned fictitious serial numbers but failed to account for the amounts so received by cash receipt scroll and destroyed the duplicate and triplicate copies of challans and thereby misappropriated the said amounts. After knowing this fact, the Disciplinary Authority placed the Petitioner under suspension pending enquiry and subsequently, called for explanation. In reply to the proceedings, the 1st Petitioner admitted the aforesaid lapses/irregularities pointed out and he has stated that he has committed the same to tide over temporary financial crisis and pleaded for lesser penalty. After that the Disciplinary Authority issued charge sheet on the 1st Petitioner, for which he did not submit any explanation and therefore, enquiry was ordered. During the enquiry, the Petitioner once again admitted the charges and sought for minimum punishment and his defence representative also stated that there was no need to examine any other witness as the Petitioner himself has admitted the charges. On considering the gravity of misconduct proved supported by the findings of the Enquiry Officer, Disciplinary Authority by his proceedings dated 18-12-2001 proposed to impose the punishment of dismissal without notice and after following the procedure, Disciplinary Authority imposed the punishment of dismissal without any notice and the Petitioner preferred an appeal against that order which was also rejected by the Appellate Authority and confirmed the punishment of dismissal without any notice. The Petitioner's allegation against the Appellate Authority is palpably false, imaginary, vague and bereft of any detail. It is well settled that it is not obligatory for the management to examine witnesses during enquiry in support of charges that have been admitted by the delinquent employee himself. The penalty of dismissal imposed upon the 1st Petitioner is commensurate with the gravity of misconduct committed by him which has been established by the unimpeachable evidence. It is well settled that while dealing with scope of interference by the Labour Court under Section 11A of the I.D. Act on penalty imposed by the employer that when a workman is charged for a serious misconduct, one cannot go by the number of years of service put in by workman or by his age or by his marital status, and leniency can depend only on the nature of misconduct alleged against the workman concerned. Further, it was also held in number of decisions that where the misconduct of delinquent is grave, the absence of any penalty during his earlier period of service by itself would not constitute a sufficient basis for holding that the penalty is not in accordance with law. Further, the Supreme Court and High Court have held in number of cases that proved misappropriation may be for a small or large amount, a necessary consequence will be that the management has lost confidence that the workman would truthfully and faithfully carry on his duties and there is no question of considering past record or showing uncalled for sympathy and reinstating an employee in service. It is well settled that Labour Court cannot substitute the penalty imposed by the employer in such cases in the purported exercise of its power under Section 11A of the Act. Hence, for all these reasons, the Respondent prays that the claim of the Petitioner may be dismissed with costs.

5. In these circumstances, the points for my consideration are

(i) "Whether the dismissal of the 1st Petitioner from service by the Respondent/ Management is legal and justified?"

(ii) "To what relief the Petitioners 3 to 7 is entitled?"

Point No. 1 :—

6. In this case, the 1st Petitioner was working as a clerk in Respondent/Bank at Papanasam branch has been charge-sheeted on the charge of misappropriation to the tune of Rs. 35,393, which was admitted by the 1st Petitioner and the punishment of dismissal from service without notice was passed by the Disciplinary Authority. Even the 1st Petitioner in his Claim Statement has claimed that his case can be considered under Section 11A of the I.D. Act for lesser punishment to save him and his family. After filing of the Claim Statement, the 1st Petitioner died and the Petitioners 2 to 7 were impleaded as LRs of the 1st Petitioner. Even after that the 2nd Petitioner namely wife of the 1st Petitioner also died. Now the Petitioners 3 to 7 who are daughters and son of Petitioners 1 and 2 have adopted the same Claim Statement of the 1st Petitioner and they pray for compensation.

7. Learned counsel for the Petitioner contended that the 1st Petitioner was employed in Respondent/Bank from the year 1971 and he had put in more than 33 years of unblemished record of service. The father of the Petitioners

3 to 7 had accepted the charge of misappropriation and also had paid the amount and he has admitted that he has done the irregularities only due to his weaker moments to tide over the financial crisis and pleaded for lesser penalty. On the other hand, the Respondent/Management has imposed the maximum punishment of dismissal from service without notice. Any way, the Respondent/Management has not considered the past records of 32 years of unblemished service. Even though the 1st Petitioner admitted the reported lapses and made good the loss sustained by the Respondent Bank, the punishment awarded to him is excessive and also disproportionate to the reported lapses. The 1st Petitioner while he was alive, was totally sick and bed ridden due to heart valve malfunction, failing vision and chronic advanced filariasis and hypertension and chronic hemiplegia of right side for several years and he was almost in deathbed and finally died on 29-10-2004. Learned counsel for the Petitioner argued that this is a rarest of rare case to interfere with the punishment under the provisions of Section 11A of the I.D. Act and to modify the punishment and direct the Respondent to pay compensation to the poor legal heirs. He also relied on the rulings reported in 2004 2 LLN 290 RAJGOT MANUFACTURING CORPORATION V/s. RUTHAI WAKELA wherein the Gujarat High Court while considering the scope of Section 11A held that *"once illegality and validity of departmental enquiry is admitted by workmen, the Labour Court is competent enough to exercise powers under Section 11A and while exercising such powers, Labour Court is competent enough* to *consider whether the Disciplinary Authority* is *justified in imposing harsh punishment of removal on the Petitioner. In that case, the management corporation the removed Respondent/workman from service as he remained absent without prior permission and medical certificate produced by him was found to be false. The High Court has also considered* 30 *years records of service and the fact that he might have retired during the pendency of proceedings and Labour Court's decision was justified in setting aside the impugned order of termination and granting reinstatement with continuity of service with 60% of back wages."* Relying on the decision, learned counsel for the Petitioner argued that, it is a fit case for invoking provisions of Section 11A of the I.D. Act.

8. As against this, learned counsel for the Respondent contended that there is absolutely no justification for the Petitioner to crave for indulgence of this Tribunal under the pretext of invoking benevolent powers, under Section 11A of I. D. Act for granting any monetary compensation and releasing the terminal benefits of the 1st Petitioner which stand forfeited. He further relied on the rulings reported in 1980 I LLJ 425 SRI GOPALAKRISHNAN MILLS PVT. LTD. V/s. LABOUR COURT wherein the Division Bench of the High Court has held that *"when a workman is charged for serious misconduct one cannot go by number of years of service put in by workman or by his age by his marital status and leniency can depend only on the nature of misconduct alleged against the concerned workman."* He further contended that even in 1992 I LLJ 194 MANAGEMENT OF CATHOLIC SYRIAN BANK LTD. Vs. INDUSTRIAL TRIBUNAL, MADRAS the High Court has held that *"where misconduct of delinquent employee is grave, the absence of any penalty during his earlier period of service, by itself would not constitute a sufficient basis for holding that penalty is not in accordance with law..... It was not the case of the 2nd Respondent workmen that he had performed meritoriously during his earlier service. The best that can be assumed is that he had not suffered any penalty earlier. But that by itself is not sufficient to hold that the order of dismissal could not have been passed, if that particular fact has been taken into account. The reference to the past record of service in the Bipartite Settlement by the counsel is not meant to be a trap to render ineffective, order of termination passed as a consequence of grave misconduct having been proved."* He further argued that subsequent death of the 1st Petitioner during the pendency of this industrial dispute cannot by any stretch of imagination, clothe the 2nd to 7th Respondents who have been brought on record only as his legal representatives to continue the proceedings with any improved right by moulding relief through misplaced sympathy or otherwise which the deceased 1st Petitioner himself could not have or claim had he been alive, as now sought by the Petitioners. Learned counsel for the Respondent further relied on the rulings reported in 1973 1 SCC 813 THE WORKMEN OF FIRESTONE TYRE & RUBBER COMPANY LTD. Vs. MANAGEMENT in which the Supreme Court has held that *once the misconduct is proved, the Tribunal has to sustain the order of punishment, unless it was harsh indicating victimisation."* He further relied on the rulings reported in 1987 4 SCC 691 CHRISTIAN MEDICAL COLLEGE HOSPITAL EMPLOYEES' UNION Vs. CHRISTIAN MEDICAL COLLEGE VELLORE ASSOCIATION wherein the Supreme Court has held that *"Section 11A cannot be considered as conferring an arbitrary power on the Industrial Tribunal or Labour Court."* He also relied on the rulings reported in 2004 8 SCC 218 REGIONAL MANAGER, RAJASTHAN STATE ROAD TRANSPORT CORPORATION Vs. SOHAN LAL wherein the Supreme Court has held that *"it is not normal jurisdiction of superior courts to interfere with the quantum of sentence unless it is wholly disproportionate to the misconduct proved."* He also relied on the rulings reported in 2005 2 SCC 481 BHARAT HEAVY ELECTRICALS LTD. Vs. M. CHANDRASEKHAR REDDY wherein, the Supreme Court has held that *"Labour Court has itself come to the conclusion that the management has lost confidence in the Respondent. If that be the case, the question of it exercising its jurisdiction under Section 11A to alter or reduce the punishment does*

not arise. That apart the reasons given by Labour Court to reduce the penalty are reasons which are not sufficient for the purpose of reducing the sentence by using its discretionary power." He also relied on the rulings reported in 2005 2 SCC 489 BHARAT FORGE CO. LTD., Vs. UTTAM MANOHAR NAKATE wherein the Apex Court has held that *"Industrial Courts would not sit in appeal over the decision of employer unless there exists a statutory provision in this behalf. Although the jurisdiction is wide but the same must be applied in terms of provisions of statute and no other. If the punishment is harsh, albeit a lesser punishment may be imposed, but such an order cannot be passed on an irrational or extraneous factor and certainly not on a compassionate ground."* He further relied on the rulings 2005 7 SCC 338 V. RAMANA Vs. APSRTC, wherein the Supreme Court has held that *"unless the punishment imposed by the Disciplinary Authority is shocks the conscience of the Court/Tribunal, there is no scope for interference."* He further contended that it is well settled that though under Section 11A, the Tribunal has power to reduce quantum of punishment, it has to be done within the parameters of law. Possession of power itself is not sufficient and it has to be exercised in accordance with law. Learned counsel for the Respondent further contended that in this case, the 1st Petitioner has admitted the misconduct that he has appropriated the amount of Rs. 35,393/ - and it cannot be said that it is a minor misconduct. He further contended that misappropriation may be for a small or large amount, the necessary consequence will be that Respondent/ Management has lost confidence that workman would truthfully and faithfully carry on his duties, hence, there is no question of considering past record or showing uncalled for sympathy and for reinstatement of employee or compensation as claimed by the Petitioners 3 to 7. Under such circumstances, he prays to reject the claim of the Petitioner.

9. I find much force in the contention of the learned counsel for the Respondent. In this case, though the learned counsel for the Petitioners alleged that the amount has been paid by the 1st Petitioner as he has pleaded guilty and also pleaded for lesser punishment. But, since the misappropriation is a grave offence and since the Respondent/Management has lost confidence in the 1st Petitioner, it cannot be said that this Tribunal can take lenient view on the punishment imposed on the 1st Petitioner. Therefore, I find this point against the Petitioners.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioners 3 to 7 are entitled?

10. In view of my foregoing findings that the dismissal of the 1st Petitioner from service by the Respondent/ Management is legal and justified, I find the Petitioners 3 to 7 are not entitled to any relief.

11. Thus, the reference is answered accordingly.

(Dictated to the P.A. transcribed and typed by him, corrected and pronounced by me in the open court on this day the 9th June, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined: —

For the Petitioner : WW1 Mr. S. Karunanidhi

For the Respondent : None

Documents Marked :—

For the I Party / Petitioner :—

Ex.No.	Date	Description
W1	20-04-00	Xerox copy of the suspension order.
W2	28-06-00	Xerox copy of the memo issued to Petitioner.
W3	22-07-00	Xerox copy of the explanation submitted by Petitioner.
W4	31-10-00	Xerox copy of the charge sheet.
W5	18-04-01	Xerox copy of the enquiry proceedings .
W6	30-07-0	Xerox copy of the enquiry finding.
W7	28-01-02	Xerox copy of the dismissal order.
W8	11-11-02	Xerox copy of the order of Appellate Authority.

For the II Party/Management :—

Ex. No.	Date	Description
M 1	18-10-01	Xerox copy of the representation of the Petitioner on Enquiry findings.
M2	20-06-02	Xerox copy of the proceedings of personal hearing before Appellate Authority.
M3	20-06-02	Xerox copy of the representation given by Petitioner to Appellate Authority during personal hearing.
M4	03-05-02	Xerox copy of the letter from Petitioner to Appellate Authority.

Ex. No.	Date	Description
M5	04-03-02	Xerox copy of the appeal prefered by Petitioner.
M6	21-01-02	Xerox copy of the proceedings of personal hearing.
M7	21-01-02	Xerox copy of the letter from Petitioner to Disciplinary Authority.

नई दिल्ली, 21 सितम्बर, 2006

का.आ 4113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 145/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/109/1996-आई आर(सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4113.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 145/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workman, which was received by the Central Government on 21-9-2006.

[No. L-22012/109/1996-IR (C–II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/145/97

Presiding Officer : SHRI C. M. SINGH

Shri Dilip Kumar and 17 Others,
Shri Jagdish Singh, General Secretary,
Koyla Mazdoor Sabha (UTUC),
PO : Dhanpuri,
Distt. Shahdol (MP) Workman/Union

Versus

The Sub Area Manager,
Chachai Sub Area, SECL
PO Amlai, Distt. Shahdol (MP) Management

AWARD

Passed on this 13th day of September, 2006

1. The Government of India, Ministry of Labour *vide* its Notification No. L-22012/109/96-IR (C-II) dated 20-5-97 has referred the following dispute for adjudication by this tribunal :—

> "Whether the action of the management of Sohagpur Area of SECL in deducting Rs. 500 per month as penal rent from December, 93 to August, 94 from the salaries of Sh. Dilip Kumar and 17 others (List enclosed) is legal and justified? If not, to what relief are the concerned workman entitled?"

2. After the reference order was received, it was duly registered on 27-5-97 and notices were issued to the parties for filing their statements of claim. The order dated 1-8-05 of this reference proceeding reveals that inspite of sufficient service of notice on workman/union, no one put in appearance on behalf of workmen/union. Therefore, it was ordered that the case shall proceed exparte.

3. The case proceeded exparte and the management was given opportunities to file their Written Statement. Order dated 4-9-06 of this reference proceeding reveals that Shri A. K. Shashi, Advocate for management submitted that management has not to file any Written Statement. Therefore after hearing the exparte argument, the reference was closed for award.

4. The burden of proving that the action of the management in deducting Rs. 500 per month as penal rent from December, 93 to August, 94 from the salaries of Sh. Dilip Kumar and 17 others (List enclosed) is illegal and unjustified is on the workman/union. But the workmen/union has filed to discharge this burden. Under the circumstances, the reference deserves to be answered in favour of the management and against the workman/union. Having considered the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

5. In view of the above, the reference deserves to be answered in favour of the management and against the workmen holding that the action of management of Sohagpur Area of SECL in deducting Rs. 500 per month as penal rent from December, 93 to August, 94 from the salaries of Sh. Dilip Kumar and 17 others (List enclosed) is legal and justified and consequently the workmen/union is not entitled to any relief. The parties shall bear their own costs of this reference.

6. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2006

का.आ. 4114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेहराबंद पायलट माइन्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 85/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-22012/49/1996-आई आर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 21st September, 2006

S.O. 4114.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 85/1997) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Behraband Pilot Mines and their workman, which was received by the Central Government on 21-9-2006.

[No. L-22012/49/1996-IR (C–II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/85/97

Presiding Officer : SHRI C. M. SINGH

The President,
Rashtriya Koyla Khadan Mazdoor Sangh,
BPM Branch,
Post Bijuri,
Distt. Shahdol (MP) .....Workman/Union

Versus

The Sub Area Manager,
Behraband Pilot Mines,
Post Bijuri,
Distt. Shahdol (MP) ....Management

AWARD

Passed on this 13th day of September, 2006

1. The Government of India, Ministry of Labour *vide* its Notification No. L-22012/49/96-IR (C-II) dated 10-3-97 has referred the following dispute for adjudication by this tribunal :—

> "Whether the action of the Sub Area Manager, Behraband Pilot Mines of SECL Hasdeo Area in terminating the services of Sh. Gulab Chand S/o Birijhoo, Loader w.e.f. 13-6-94 is legal and justified? If not, to what relief are the concerned workman is entitled?"

2. After the reference order was received, it was duly registered on 18-3-97 and notices were issued to the parties to file their respective statements of claim. Order dated 25-4-06 of this reference proceeding reveals that inspite of sufficient service of notice on workman/union, no one put in appearance on behalf of workman/union and the case proceeded exparte against the workman/union. Thus no statement of claim has been filed on behalf of workman/union.

3. The management filed their Written Statement. Their case in brief is as follows. That workman Shri Gulab Chand was initially appointed as piece rated loader. The workman was a habitual absentee. He remained absent from duty unauthorisely, without intimation, permission or sanctioned leave. He was given several warnings and was cautioned if he will fail to put proper attendance, serious action will be taken against him. Inspite of such warnings, workman did not show any improvement and he continued to remain absent from duty unauthorisely. His attendance in the year 1997 was only 17 days and in the year 1998—nil. Under the circumstances, the management had no option but to issue chargesheet to the workman under clause 26.24 and 26.30 of the Standing Orders. The workman submitted reply on the said chargesheet on 5-5-94. As the reply was found unsatisfactory, it was decided to conduct a Departmental enquiry against him. Accordingly vide office order No. 2715 Shri B. N. Prasad the then Dy. Personnel Manager was appointed as Enquiry Officer and Shri K. K. Tripathi, the then Sr. Under Manager was appointed as Management Respresentative. The Enquiry Officer conducted the enquiry legally, properly and after having followed the principles of natural justice. The Enquiry Officer vide his report dated 25-5-94 held that the charges have been proved against the workman. The entire enquiry proceedings along with the enquiry report were placed before the competent authority who after having gone through the same satisfied that the enquiry has been conducted legally, properly and after having followed the principles of natural justice. He was satisfied that the workman was given ample opportunity to represent his case in the Departmental Enquiry. However the workman chosen not to participate in the enquiry and therefore the Enquiry Officer rightly conducted the enquiry in his absence. The Competent Authority further agreed with the findings of the Enquiry Officer based on evidence producd in the Enquiry and charges have been proved against him. Accordingly, the competent authority vide office order No. 4719-36 dated 1/13-6-94 terminated the services of the workman. Considering the entire facts and circumstances of the case, the competent authority vide order dated 1/13-6-94 terminated the services of the workman. The workman is consequently not entitled to any relief whatsoever.

4. The management in order to prove their case filed affidavit of Shri K. K. Tripathi, the then working as SOM

(SE) in SECL Hasdeo Area. The management also filed photostat copies of the enquiry proceedings.

5. I have heard Shri A. K. Shashi, Advocate for the management. I have very carefully gone through the entire evidence on record.

6. As the case proceeded *ex parte* against the workman, no statement of claim has been filed on behalf of workman and no evidence has been adduced on behalf of workman/union.

7. Against the above, the case of the management is fully established and proved from the uncontroverted affidavit of management's witness Shri K. K. Tripathi. Therefore the reference deserves to be answered in favour of the management and against the workman. Having considered the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

8. In view of the above, the reference is answered in favour of the management and against the workman holding that the action of the Sub Area Manager, Behraband Pilot Mines of SECL Hasdeo Area in terminating the services of Sh. Gulab Chand S/o Birjhoo, Loader w.e.f. 13-6-94 is legal and justified and consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

9. Copy of award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2006

का. आ. 4115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, इरनाकुलम के पंचाट (संदर्भ संख्या 130/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/69/2000-आई आर(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd September, 2006

S. O. 4115.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 130/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of UCO Bank and their workmen, received by the Central Government on 21-9-2006.

[No. L-12012/69/2000-IR (B–II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : SHRI P.L. NORBERT, B.A., L.L.B., Presiding Officer

(Wednesday the 6th day of September, 2006/15th Bhadrapada, 1928)

I. D. 130/2006

(I.D. 94/2000 of Industrial Tribunal Kollam)

Workman	:	K. Vijaya Kumar Indira Bhavan, Kannippuram Neyyattinkara Thiruvananthapuram. Adv. Shri V.A. Jayaraj.
Management	:	UCO Bank Rep. by the Regional Manager Regional Office, UCO Bank Building TC25/2386/1, P.B. No. 13, Over Bridge Junction Thiruvananthapuram Adv. Shri P. Balakrishnan.

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

> "Whether the action of the management of UCO Bank in relation to their Trivandrum Branch in striking off the name of Shri K. Vijaya Kumar, Clerk from the rolls of the bank w.e.f. 26-02-1994 treating him as voluntarily retired is justified ? If not, what relief the workman is entitled to?"

2. The facts in brief are as follows :

According to the workman he was appointed as Clerk in the management bank in 1980. He is a physically handicapped person. While in service in 1992 he suffered severe rheumatism. The treatment was continued for one year and leave applications were submitted to the manager of the bank along with medical certificates. Leave without allowance was granted. On 7-5-1993 he wanted to resume duty. But he was told by the Branch Manager to produce medical certificate on the next day. But on the next day he could not join duty due to dysentery and was bed-ridden for more than 2 weeks. When he recovered, again rheumatism revived and he took ayurvedic treatment in Tamil Nadu. He had given leave applications. But when he returned after treatment he came to know that he was terminated from service for unauthorized absence. The action of the management is illegal and arbitrary. He never intended to cease employment. After termination of the service the terminal benefits due to the claimant was

adjusted against loans. The workman with difficulty settled all the dues on account of loan to the bank hoping reinstatement. But the management did not do so. The termination is illegal and in violation of the principles of natural justice. A domestic enquiry was conducted and no personal hearing was given before termination of service. The claimant is the sole bread-winner of the family. The wife of the claimant is also handicapped and children are studying. Hence this dispute.

3. The management filed written statement contending that this court has no jurisdiction to entertain the dispute. A notice u/s- 17(a) of Bipartite Settlement was given to the claimant asking him to report for duty within 30 days from the date of notice. Since he failed to report for duty within time or gives satisfactory explanation his service was terminated after expiry of the period of notice. It was not necessary for the bank to hold a domestic enquiry. The claimant was bound to join duty on 7-5-1993. But he did not do so. After termination the claimant submitted a claim for gratuity and provident fund stating that he had voluntarily retired from service. Since he has voluntarily retired from service he is not qualified for pension. The claim has been put forward for reinstatement after a period of 6 years from the date of cessation of employment. The claim is barred by limitation. The claimant is not entitled for reinstatement.

4. The points for consideration are :

(1) Is the reference barred by limitation ?

(2) Is the termination of service leagal?

(3) To what relief, if any, the claimant is entitled?

The evidence consists of oral testimony of WW1 and documentary evidence of Exts. W1 to W5 on the side of claimant and MW1 and Exts. M1 to M29 on the side of management.

5. **Point No. (1) :**

The workman joined the service of the bank in 1980. His service was terminated on 26-2-1994 on account of long unauthorized absence. According to the management the industrial dispute is highly belated and is barred by limitation.

6. The reference was made by the Central Government on 21-9-2000. Before that the claimant had made a representation to the Chairman of the Bank by Ext. W5 dated 8-9-1999 submitting his grievances about the action of the bank in terminating his services and requesting for an order for reinstatement. Before that he had been trying to get the retirement benefits due to him which the bank had offered to give and was mentioned in the termination order. Ext. W5 was submitted to the Chairman 5 years after termination. According to the claimant had he not expressed his willingness and submitted a request for retirement benefits, the bank would have been reluctant to pay. Hence he was constrained to apply for gratuity, provident fund, pension, etc. That may be one of the reasons why the claimant had not raised an industrial dispute immediately on termination of his service. The quesiton is whether the delay has affected the maintainability of the reference. The Limitation Act is not applicable to the proceedings under I.D. Act. In Ajaib Singh v. Sirhind Co-op. M.P.S.S. Ltd. 1999 (2) L.L.N. 674 the Hon'ble Supreme Court in paragraph 10 of the judgement observed that Limitation Act does not apply to the proceedings under I.D. Act and court cannot substitute what is not provided by the legislature. In Indian Iron & Steel Co. Ltd. v. Prahlad Singh 2000 (4) L. L. N. 1182 the Industrial Tribunal refused to grant relief to an employee whose service was terminated and who had raised an industrial dispute after 13 years. The Hon'ble Supreme Court observed in paragraph 11 of the judgement that depending upon the facts and circumstances of each case relief can be declined on the ground of delay and latches. However no observation was made with regard to application of Limitation Act in the judgement. The learned counsel for the management relied on the decision in Nedungadi Bank Ltd. v. K.P. Madhavankutty & Ors. 2000-1 L.L.J. 561. In paragraph 6 of the judgement it is observed that though law does not prescribe any time limit for appropriate Government to make a reference to the Industrial Tribunal u/s-10 of I.D. Act it does not mean that it can do so at any point of time and to revive matters which had since been settled. The power is to be exercised reasonably and in a rationale manner. As to when a dispute can be said to be stale would depend on the facts and circumstances of each case. It is further observed with reference to the decided case that once the matter has become final it is rather incongruous to make a reference u/s-10 of the Act. The sum and substance of the decision referred above is that the Limitation Act does not apply to the proceedings under I.D. Act. However, considering the facts and circumstances of each case the court has to decide whether the industrial dispute has become too old or stale for consideration and whether such adjudication would revive the issue which has become final already.

7. Coming to the case on hand, as I have already mentioned that the service of the workman was terminated on 26-2-2004 and he had made a representation to the Chairman of the Bank by Ext. W5. That was on 8-9-1999. The reference was made by the Central Government on 21-9-2000. Hence at the time of reference the issue was very much alive. Though the reference is made after six years from the date of dismissal there was a representation to the bank by the workman one year prior to the reference. No doubt, the workman made a representation 5 years after the termination. But it has to be noted that he is a disabled person and he was under treatment for rheumatism. Besides there were proceedings for settlement of retirement benefits and he had been approaching the bank for such benefits

off and on. This can be seen from Exts. M1, M2, M3, M4, M25, M26, M28 & M29. Considering these circumstances I find that there is no inordinate delay in raising the dispute. Point is answered accordingly.

8. Points No. (2) & (3) :

The workman had been in the service of the bank as Clerk for about 13½, years. According to the workman he had been under treatment for rheumatism since April 1992 and had applied for leave from time to time. Such leave continued upto 7-5-1993. This is seen from the very representation of the workman to the Chairman of the Bank dated 8-9-1999 (Ext. W5). When the management asked him to be examined by a Civil Surgeon of General Hospital, Trivandrum he underwent examination by Dr. Ravindran, Civil Surgeon, General Hospital, Trivandrum and the workman was found to be fit for joining duty. However he did not join duty on that day on the ground that he was suffering from dysentery and he had to take rest for 2 weeks. when he recovered from dysentery. According to the workman, rheumatism revived and thus he fell sick again and he had to take ayurvedic treatment once again from a hospital in Tamil Nadu. So he had applied for leave. But when he returned after treatment he came to know that his service was terminated by the bank. These facts are contained in Ext. W5 representation of workman to the Chairman of Bank. Ext. W2 is the letter of termination dated 26-2-1994. Ext. W1 is the notice issued under the provisions of Bipartite Settlement for unauthorized absence. The notice is dated 22-1-1994. It is stated in Ext. W1 that the workman had applied for leave from 15-6-1993 enclosing a medical certificate from a sidha vadya. The leave was applied for 3 months from 15-6-1993. He sought extension of leave by another 3 months by letter dated 15-9-1993. Again he sought extension of leave for another 3 months by letter dated 15-12-1993. Thus, in all he had applied for 9 months continuous leave. It is stated that there was no leave of any kind at credit in the leave account of the workman since 15-6-1993 and that the workman was aware of that. The continuous absence had affected the normal function of the bank. He was asked to report for duty within 30 days from the date of receipt of letter failing which his name would be struck off from the muster roll of the bank on expiry of the period of notice. To this notice admittedly there was no reply. But according to the workman since leave application was already pending in the bank it was not necessary to apply again for leave or submit any explanation for absence. Ext. M11 is an application for leave dated 15-6-1993 for 3 months. Ext. W17 is another application dated 15-9-1993 applying for leave for 3 months from 15-9-1993. Again he applied for leave by Ext. M18 for another 3 months from 15-12-1993 to 15-3-1994. It is true that the workman had applied for leave upto 15-3-1994 on the ground that he was suffering from rheumatism and undergoing treatment in an Ayurvedic Hospital in Tamil Nadu. However, to Ext. W1 notice there was no response. The question is whether the leave applications were sufficient answer to Ext. W1 notice. Clause 17 of Bipartite Settlement dated 10-4-1989 (see page 367 of 'Bipartite Settlements' published by M/s H.P.J. Kapoor (Twelfth Edition, 2005) reads :—

> **"17. Voluntary Cessation of Employment by the Employees**
>
> The earlier provisions relating to the voluntary cessation of employment by the employee in the earlier settlemerns shall stand substituted by the following;—
>
> (a) When an employee absents himself from work for a period of 90 or more consecutive days, without submitting any application for leave or for its extension or without any leave to his credit or beyond the period of leave sanctioned originally/subsequently or when there is a satisfactory evidence that he has taken up employment in India or when the management is reasonably satisfied that he has no intention of joining duties, the management may at any time thereafter give a notice to the employee at his last known address calling upon him to report for duty within 30 days of the date of the notice, stating *interalia* the grounds for coming to the conclusion that the employee has no intention of joining duties and furnishing necessary evidence, where available. Unless the employee reports for duty within 30 days of the notice or given an explanation for his absence within the said period of 30 days satisfying the management that he has not taken up another employment or avocation and that he has not intention of not joining duties, the employee will be deemed to have voluntrarily retired from the bank's service on the expiry of the said notice. In the event of the employee submitting a satisfactory reply, he shall be permitted to report for duty thereafter within 30 days from the date of the expiry of the aforesaid notice without prejudice to the bank's right to take any action under the law or rules of service."

The provision shows that an employee who absents himself from work for a period of 90 days or more consecutive days without applying for leave or extension of leave or without any leave in his credit, shall be given notice asking him to report for duty within 30 days from the date of notice. Unless he reports for duty or offers sufficient explanation for his absence within the said period of notice he will be deemed to have voluntarily retired from service on the expiry of the said period of notice. That being the provision in the Bipartite Settlement his previous applications for leave will not be sufficient. He had no leave of any kind at his credit as on 15-6-1993. WW1 (claimant) admitted when he was in

the box that he had no leave at credit (page 8). Till then he had been on leave almost countinuously except for a few days in between from April 1992 onwards and whatever leave that was granted prior to 15-6-1993 was leave without allowance. An employee without leave on credit is considered to be an unauthorized absentee and he has to be proceeded under Clause 17(a) of Bipartite Settlement. Therefore the action under Clause 17(a) of the Settlements could be avoided only by either submitting an explanation for his absence or reporting for duty. That was not done by the workman.

9. He has a case that he had not received Ext. W1 notice as well as Ext. W2 termination order. According to the management Ext. W1 notice and Ext. W2 termination order were sent by post in the address given by the workman. The very conduct of the workman in producing the original notice as well as the original termination order belies his contention that he did no receive notice or order. Ext. W1 is the original notice and Ext. W2 is the original order of termination. He has to explain how he came in possession of these two original documents without having received them by post or otherwise. It has to be presumed that he did receive the notice as well as termination order. Besides, the notice and termination order were sent in the address of the last known residence furnished by the worker to the bank. The learned counsel for the management referred to the decision of Hon'ble Supreme Court in Syndicate Bank *v.* General Secretary, Syndicate Bank Staff Association 2000 (1) L.L.J. 1630. In that case a notice, as per the provision of Bipartite Settlement, proposing to terminate the service of the workman, was sent in the correct address of the workman. The cover returned with an endorsement 'refused'. The Hon'ble Supreme Court held that a clear presumption arises in favour of the bank and against the workman regarding appropriate service of notice. In this case there is no such evidence of having refused the notice. But a notice addressed to the workman in his last known residence must be presumed to have been served in view of Section 114 ills. (f) of Indian Evidence Act. That apart, the subsequent conduct of the workman after termination of service is illustrative of the knowledge that the workman had, of the notice Ext. W1. He had taken steps to get his retirement benefits by submitting application and sending correspondence to the bank. Ext. M1 is a request for settlement of provident fund account. Ext. M2 is acknowledgement of receipt of provident fund. Ext. M3 is a request of the workman for supply of necessary forms for the purpose of giving option for pension. Ext. M4 is a request for pension. Ext. M25 is a request by the workman to the Sr. Manager of the Bank to adjust the provident fund and gratuity amounts towards housing loan. Ext. M29 is another request for pension. The workman has a case that he requested for payment of provident fund, gratuity and sanction of pension because of compulsion by the management. Had he not acceded to the direction of the bank he would not have received anything at all from the bank. Hence according to him there was no admission on his part by making applications for retirement benefits that he had either received notice or termination order. Assuming that there was some pressurising tactics by the bank to make him accept retirement benefits in order to show that his services were terminated and he was aware of that, still the worker could have accepted provident fund and gratuity under protest without prejudice to his rights. Even after accepting provident fund and gratuity and applying for pension, he did not even send a letter or a lawyer notice to the management stating that it was under compelling circumstances that he had applied and received retirement benefits. In the absence of any such protest and in view of the very production of original notice and termination order the contention looses force and has to be considered only as a defence in the case. The notice was given as per Bipartite Settlement. Since the workman had been continuously absent without leave of any kind at credit for more than 90 days from15-6-1993, Clause 17 of Bipartite Settlement was attracted and a notice granting 30 days' time to report for duty or to offer explanation, was given. On expiry of the period of notice, in the absence of any response on the side of workman he could be treated as having voluntarily retired from service. No domestic enquiry is required. Therefore there is no illegality in terminating the service of the workman. Points are answered accordingly.

10. In the result, an award is passed finding that the action of the management in striking off the name of Shri K. Vijaya Kumar from the rolls of the bank w.e.f. 26-2-1994 and treating him as having voluntarily retired from service is legal and justified and that the workman is not entitled to any relief. No costs. The award will take effect one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 06th day of September, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the workman :

WW1 —Vijayakumar

Witness for the Management :

MW1 —T.V. Gopalakrishna.

Exhibits for the Workman :

W1 —Notice No. TVMD/PAD/MISC/94/145 dated 22-1-1994 issued by the management to workman.

W2 —Notice No. TVMD/PAD/MISC/94/161 dated 26-2-1994 issued by the management to workman.

W3 —Copy of Application for leave along with M/C submitted by workman.

W4 —Notice dated 29-7-1994 issued by the management to workman regarding voluntary cessation of services.

W5 —Copy of representation dated 8-9-1999 submitted by workman to Chairman, UCO Bank.

Exhibits for the Management :

M1 —Letter dated 20-9-2004 sent by workman to management for settlement of P/F dues.

M2 —Receipt dated 26-4-1995 signed by workman towards P/F dues.

M3 —Letter dated 25-8-1994 sent by workman to management for gratuity.

M4 —Letter dated 20-11-1995 sent by workman to management.

M5 —Copy of letter No. TVMD/PAd/MISC/92-93/186 dated 13-11-1992 issued by management to workman.

M6 —Letter dated 23-11-1992 sent by Smt. Usha Vijayan, W/o the workman to the Divisional Manager, UCO Bank.

M7 —Medical Certificate dated 6-5-1993 issued by Sidha Medical College Hospital.

M8 —Fitness Certificate dated 7-9-1993 issued by Dr. P.K. Ravindranath to workman.

M9 —Copy of letter No. M/117/93 dated 27-5-1993 issued by the management to workman.

M10 —Letter sent by workman to Manager, UCO Bank, Tvm.

M11 —Letter dated 15-6-1993 sent by workman to Manager, UCO Bank.

M12 —Copy of letter dated 21-6-1993 sent by UCO Bank, Tvm. Branch to Divisional Office, Tvm.

M13 —Copy of letter dated 23-7-1993 issued by management to Dr. P.K. Ravindranath.

M14 —Acknowledgement Card dated 26-7-1993.

M15 —Letter dated 2-8-1993 sent by Dr. P.K. Ravindranath to Manager, UCO Bank.

M16 —Letter dated 4-8-1993 written by Shri Alfred Culas to Manager, UCO Bank.

M17 —Letter dated 15-9-1993 sent by workman to Manager, UCO Bank.

M18 —Letter sent by workman to Manager, UCO Bank requesting leave extension.

M19 —Copy of notice No. TVMD/PAD/MISC/94/145 dated 22-1-1994 issued by management to workman.

M20 —Copy of notice No. TVMD/PAD/MISC/94/161 dated 26-2-1994 issued by management to workman.

M21 —Copy of Notice No. DM/563/93-94 dated 26-2-1994 issued by Sr. Manager, Divisional Office, UCO Bank, Tvm. to Z/O, Bangalore & HO, PAD, Calcutta.

M22 —Undelivered postal cover addressed to workman by management.

M23 —No. DM/388/94-95 dated 17-8-1994 by management.

M24 —Letter dated 2-9-1994 issued by Secretary, Bank Employees' Coop. Society Ltd. to the Manager, UCO Bank.

M25 —Letter dated 17-4-1995 written by workman to management.

M26 —Letter No. M/129/95-96 dated 10-6-1995 issued by management to workman.

M27 —Underlivered postal cover addressed to workman.

M28 —Copy of letter No. M/480/95-96 dated 5-12-1995 issued by UCO Bank, Tvm. to the Divisional Manager, UCO Bank.

M29 —Letter dated 23-4-1996 sent by workman to Divisional Manager, UCO Bank.

नई दिल्ली, 22 सितम्बर, 2006

का. आ. 4116.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय इरनाकुलम के पंचाट (संदर्भ संख्या 24/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/68/2003-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 22nd September, 2006

S. O. 4116 .— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the management of Canara Bank and their workmen, received by the Central Government on 21-9-2006.

[No. L-12012/68/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri P.L. Norbert, B.A., L.L.B., Presiding Officer

Thursday the 31st day of August, 2006

I. D. 24/2006

(I.D. 42/2003 of Labour Court Ernakulam)

Workman Shri C. Rajendran
Chettiparambil House,
Thekkumbhagam
Tripunithura
Ernakulam District

Adv. Shri C. Anil Kumar

Management The Dy. General Manager
Canara Bank, Staff Section (W)
Civil Office
Trivandrum.

Adv. Shri R.S. Kalkuar

AWARD

This is a reference made by Central Government under Section 10 (1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

"Whether non-renewal of contract amounts to denial of employment? Whether the service of the applicant was terminated by the management of Canara Bank? If terminated, whether the termination is legal or not? If not, what are the relief the applicant Sh. C. Rajendran entitled to?"

2. The facts in brief are as follows :

The workman was appointed in the manaement bank as Balakshema Deposit Collection Agent w.e.f. 1-4-1989 in Tripunithura branch. He was denied employment w.e.f. 1-6-1997. However it was done without complying with the provisions of Industrial Disputes Act. No notice for compensation was given to him. The persons who were juniors to him were retained by the bank. The termination was unexpected and he could not find out alternate employment. Due to financial difficulties and mental shock the workman could not seek proper legal advice and raise an industrial dispute on time. According to the claimant as a deposit collecting agent he had to work on all working days of the bank more than 8 hours a day remitting collections and settling the accounts with the bank. His work was supervised and controlled by the chief manager of the branch. His service was continuous and uninterrupted. There was employer-employee relationship between him and the bank. He is eligible to be reinstated with back wages and continuity of service.

3. According to the management the industrial dispute as framed is not maintainable. There is no employer-employee relationship between the workman and the bank. The relationship is only of a principal and agent and hence no industrial dispute can be raised by the workman. The claim is barred by limitation. The dispute is raised more than 5 years after the termination of the service of the workman. The dispute has become stale and cannot be entertained. The Balakshema Deposit Scheme (BDS) when found not remunerative was stopped by the bank as per a policy decision of the bank in 1994. A circular was issued communicating that no new account shall be opened under BDS. However the accounts opened till 31-5-1994 were continued upto to their maturity as per the terms and conditions of the scheme. On maturity of all the accounts under the scheme. The scheme came to an end and the agency also ceased to exist. The agents were appointed in the scheme on contract basis. They were paid commission depending upon the collection. Their work is not restricted by the bank. The bank has no control over the agent regarding hours of work, time of work or manner of work. On stoppage of the scheme the contract came to an end and stands cancelled. The workman was not entitled to get notice or compensation under I.D. Act as he was not an employee of the bank but only an agent. There was only one agent in Tripunithura branch. There was no question of renewal of the contract. The agents under deposit scheme are not governed by service rules or regulations of the bank.

4. The workman filing rejoinder contended that he is a workman defined u/s 2(s) of I.D. Act and provisions of I.D. Act are applicable to him. There is no limitation in proceedings under Industrial Disputes Act. There was control over the work of the claimant by the chief manager of the bank.

5. In the light of the above contentions the following points arise for consideration :

(1) Is the dispute barred by limitation?

(2) is the termination of service of the workman illegal?

(3) To what relief, if any, the workman is entitled?

The evidence consists of the oral testimony of WW1 and Exts. W1 to W6 on the side of workman and MW1 and Ext. M1 on the side of management.

6. Point No. (1) :

It is an admitted fact that the workman was appointed by the management bank in Tripunithura branch on 1-4-1989 as Balakshema Deposit Collection Agent. He continued to work as such till 1-6-1997. As per a decision

of the bank in1994 the deposit scheme was stopped and came to a standstill when all the accounts started under the scheme reached maturity by 1-6-1997. The work of the claimant also was stopped then. He did not raise any dispute immediately. The reference was made in 2003. The case of the management (paragraph 5 of the written objection) is that the dispute was raised more than 5 years after his termination and it is belated and stale and barred by limitation.

7. Ext. W2 is the appointment order dated 31-10-1989. Ext. W4 is the copy of Circular No. 109/94 intimating different branches of the bank that the BDS is stopped and no account shall be opened. The agency of the claimant came to an end by 1-6-1997. The dispute was raised more than five years after the agency was stopped. Both sides canvassed for their respective positions regarding application of Limitation Act and delay on the strength of various decisions. But none of the decisions says that Article 137 Limitation Act is applicable to proceedings under Industrial Disputes Act. However, it is observed that when there is long delay in approaching the court the dispute may be treated as stale depending upon the facts and circumstances of that case. If the delay is not satisfactorily explained or the delay causes real prejudice to the management, as by that time the records would have been destroyed, then the claim cannot be entertained. If at all such a claim is entertained the relief to be granted to the workman should be appropriately moulded so that undue hardship will not be caused to the management occasioned by long delay.'

8. I will now refer to the decisions cited by both sides on the subject. In Ajaib Singh v. Sirhind Coop. Marketing-cum-Processing Service Society Ltd. (1999) 6 SCC 82 the service of the workman was terminated. He approahced the court after 7 years. The Labour Court directed reinstatement of the workman with full back wages from 1981. The reference was in 1982. The management filed a writ petition before the Hon'ble High Court challenging the award. The Hon'ble High Court held that the workman was not entitled to any relief as the claim was belated. The matter was taken up from the Single Bench Judge to the Division Bench in appeal. The decision of the Single Bench was upheld by the Division Bench. The decision of the Division Bench was challenged before the Hon'ble Supreme Court. It was observed in paragraph 10 of the judgement as follows :—

> "10. It follows, therefore, that the provisions of Article 137 of the Schedule to the Limitation Act, 1963 are not applicable to the proceedings under the Act and that the relief under it cannot be denied to the workman merely on the ground of delay. The plea of delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone. Even in a case where the delay is shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/termination or dismissal. The court may also in appropriate cases direct the payment of part of the back wages instead of full back wages. Reliance of the learned counsel for the respondent management on the Full Banch judgement of the Punjab and Haryana High Court in Ram Chandrer Morya v. State of Haryana is also of no help to him. In that case the High Court nowhere held that the provisions of Article 137 of the Limitation Act was applicable in the proceedings under the Act. The Court specifically held "neither any limitation has been provided nor any guidelines to determine as to what shall be the period of limitation in such cases". However, it went on further to say that
>
> > "reasonable time in the cases of labour for demand of reference or dispute by appropriate Government to labour tribunals will be five years after which the government can refuse to make a reference on the ground of delay and latches if there is no explanation to the delay."
> >
> > We are of the opinion that the Punjab and Haryana High Court was not justified in prescribing the limitation for getting the reference made or an application under Section-33C of the Act to be adjudicated. It is not the function of the court to prescribe the limitation where the legislature in its wisdom had thought it fit not to prescribe any period. The courts admittedly interpret law and do not make laws. Personal view of the Judges presiding over the Court cannot be stretched to authorize them to interpret law in such a manner which would amount to legislation intentionally left over by the legislature. The judgement of the Full Bench of the Punjab and Haryana High Court has completely ignored the object of the Act and various pronouncements of this Court as noted hereinabove and thus is

not a good law on the point of the applicability of the period of limitation for the purposes of invoking the jurisdiction of the courts/boards and tribunal under the Act."

In Nedungadi Bank Lt. v. K.P. Madhavankutty (2000) 2 SCC 455 it is observed by the Hon'ble Supreme Court that while the Government exercises power u/s10 of the Act by referring a dispute for adjudication though the law does not prescribe any time limit for reference of a dispute, the power u/s-10 is to be exercised reasonably and in a rational manner. A dispute which is stale cannot be the subject matter of reference u/s-10 of the Act. Whether a dispute is stale or not would depend on the facts and circumstances of each case (paragraph 6).

In Assistant Executive Engineer v. Sivalinga 2002 I.L.L.J. 457 it is held in paragraph '6' of the judgement that though the Limitation Act as such is not applicable to the proceedings under I.D. Act the long delay may sometimes create difficulty for the employer to adequately meet the claim of the worker due to non-maintenance of records after a certain period. A situation of that nature would render the claim stale. Paragraph 6 reads :

"6. Learned counsel for the appellant strongly relied on the reasoning of the Labour Court and contended that the view of the High Court would not advance the case of justice. Learned counsel for the respondent relied upon two decisions of this Court in Ajaib Singh v. The Sirhind Co-operative Marketing-cum-Processing Service Society Ltd. & Anr., AIR 1999 SC 1351 : 1999(6) SCC 82 : 1999-I-L.L.J. 1260 and in Sapan Kumar Pandit v. U.P. State Electricity Board & Ors. 2001 (6) SCC 222 : 2001-II-L.L.J. 788 to contend that there is no period of limitation prescribed under the Industrial Disputes Act, to raise the dispute and it is open to a party to approach the Court even belatedly and the Labour Court or the Industrial Tribunal can properly mould the relief by refusing or awarding part payment of back wages. It is no doubt true that in appropriate cases as held by this Court in aforesaid two decisions, such steps could be taken by the Labour Court or the Industrial Tribunal as the case may be where there is no such dispute as to relations between the parties as employer and employee. In cases where there is a serious dispute or doubt in such relationship and records of the employer become relevant, the long delay would come in the way of maintenance of the same. In such circumstances, to make them available to a Labour Court or the Industrial Tribunal to adjudicate the dispute appropriately will be impossible. A situation of that nature would render the claim to have become stale. That is exactly the situation arising in this case. In that view of the matter, we think the decisions relied upon by the learned counsel have no application to the case on hand. Proceeding on the facts of the case, we think the High Court is wrong in having interfered with the award made by the Tribunal. The order made by the High Court in writ proceedings, therefore, shall stand set aside and the award made by the Labour Court shall stand restored. The appeal is allowed accordingly."

In Haryana State Co-op. Land Development Bank v. Neelam 2005 I-L.L.J. 1153 the court was dealing mainly with the reliefs to be granted to the workman in the industrial dispute. In paragraph 13 of the judgement it is observed that though there is no period of limitation regarding proceedings under I.D. Act it does not mean that irrespective of facts and circumstances of each case a stale claim must be entertained by the appropriate government and when such reference is made the court is bound to grant reliefs to the workman. Para 13 reads :

"13. In Ajaib Singh (supra), the management did not raise any plea of delay. The Court observed that had such plea been raised, the workman would have been in a position to show the circumstances which prevented him in approaching the Court at an earlier stage of even to satisfy the Court that such a plea was not sustainable after the reference was made by the Government. In that case, the Labour Court granted the relief, but the same was denied to the workman only by the High Court. The court referred to the purport and object of enacting Industrial Disputes Act only with a view to find out as to whether the provisions of the Article 137 of the Schedule appended to the Limitation Act, 1963 are applicable or not. Although the Court cannot import a period of limitation when the statute does not prescribe the same, as was observed in Ajaib Singh (supra), but it does not mean that irrespective of facts and circumstances of each case, a stale claim must be entertained by the appropriate government while making a reference or in a case where such reference is made the workman would be entitled to the relief at the hands of the Labour Court."

In Mahabir v. State of Haryana 2005 II-L.L.J. 391 in paragraph 15 it is held that though there is no period of limitation applicable in proceedings under I.D. Act it does not mean that a dispute can be raised at any time and

without there being any regard to the delay and reasons therefor. Paragraph 15 reads :

> "Keeping in view the above principle, it is evident that though the Act does not provide for limitation for raising an industrial dispute, however, this does not mean that the dispute can be raised at any time and without there being any regard to the delay and reasons therefore. It is but appropriate that disputes affecting the rights of the workmen should be raised as soon as possible after they have arisen so that the appropriate Government refers them for adjudication in the event of failure of the conciliation proceedings, but it is equally true that delay in raising a dispute would be a circumstance, which is liable to be taken into consideration and in case no reasons are given in support of the delay it would have a barring on the rights of the workman concerned and he is liable to be non-suited on the ground of delay. However where reasons are given and there is explanation for the delay in raising the dispute, the same would be a factor for consideration by the appropriate Government."

Keeping these observations of the Hon'ble Supreme Court I will come to the case on hand. The workman was in the service of the bank till 1-6-1997. The reference was made to this court on 14-8-2003. In paragraph 5 of the objection of the management it is stated that the claim was made more than 5 years after termination of the services of the workman. Between 1997 and 2003 the workman had not made a complaint or representation to the bank requesting to redress his grievance. By Ext. W5 on 23-8-1996 he had made a request to consider him in NNND scheme which is another deposit scheme run by the bank. By Ext. W6 letter dated 10-9-1996 the bank intimated the workman their inability to consider his request. This was prior to the termination of the workman. Other than this there was no other representation to the bank. Thus going by the contention of the management there was delay of more than 5 years in raising the dispute. However in paragraph 6 of the claim statement the worker has explained the reason for the delay. It is :

> "The termination was unexpected and I was unable to find an alternate employment so far. Due to severe financial constraints and mental shock, resulted from unemployment I could not seek a proper legal advice and to raise an industrial dispute in time."

9. The worker was only an agent under a deposit scheme. No qualification was prescribed for appointing such agents for deposit collection. It is mentioned in paragraph 8 of the objection of the management that the bank did not stipulate any age restriction or 'basic educational qualification for selection of agents. Hence a person like the workman cannot be expected to be aware of the legal positions and the rights that are available under labour law. Such poor workmen may not have even the reasources and the finance to seek legal advice immediately when some difficulty arises in their service. It is in that background that the explanation of the workman has to be considered. On the other hand, so far as the management is concerned, the delay of over 5 years has not apparently caused any prejudice to them because in the nature of the dispute and the reliefs sought, no old records are required. The dispute under reference is that by non-renewal of contract he is denied employment and that the termination of service is illegal. Considering the dispute no account books or documents relating to BDS are required. It is an admitted case that the scheme was stopped in 1997. Therefore the delay can in no way cause any prejudice to the management. Considering these circumstances and in the light of the decisions referred above I find that there is no inordinate delay in raising the dispute, that the delay is explained and that the delay has not caused any prejudice to the management.

10. Point No. (2) :

The workman was in the service of the bank from 1-4-1989 to 1-6-1997 for a period of 8 years. He was a deposit collection commission agent admittedly. Though the management says that there was a written contract at the time of engaging the workman the same is not produced. Both sides agree that no period was mentioned in the said contract for engaging the workman. Therefore the first question as per reference whether the non-renewal of contract amounts to denial of employment loses its importance because the contract was not for a specific period. Hence the question of renewal of contract does not arise in this case. Consequently the non-employment cannot also be due to non-renewal of contract.

11. The second question as per the reference is whether the termination of service is legal or not. The bank has not admitted that the workman was a regular employee. He was appointed only as a collecting agent under the deposit scheme. There has never been any change in his status as agent. He was also paid commission for the work he was doing depending upon the collection he used to make. None of the service conditions of bank employees were applicable to him. According to the management once the Deposit Scheme was stopped the service of the workman came to an end. Since he was only an agent and not an employee of the bank he was not entitled for notice or compensation at the time of stoppage of the engagement of the workman. On the other hand, the learned counsel for the workman argued that the claimant is a workman coming u/s-2(s) of I.D. Act and he is entitled for notice and other benefits under the provisions of I.D. Act. Section 2(s) defines workman and is wide enough to cover any kind of employment. In Indian Bank's Association v. Workmen of Syndicate Bank (2001) 3 SCC 36 the commission agents

under deposit collection scheme were demanding pay scales, allowances and other benefits available to regular clerical employees of banks. The Hon'ble Supreme Court considering the questionwhether they were workmen falling u/s-2 (s) of I.D. Act, held in paragraph 24 to 27 that they are workmen u/s-2(s) of I.D. Act, that the commission they are receiving as remuneration is nothing but wages coming u/s-2 (rr) of the Act, that the banks have control over deposit collectors, that the commission agents are accountable to the bank and do certain amount of clerical job for the purpose of settling accounts with regard to collection and remittance of the amounts in the bank, that there is no prohibition u/s-10 of Banking Regulation Act against payment of commission to persons engaged in the work of the bank other than regular employees and that there is master and servant relationship between the two. It is relevant to extract paragraphs 24 to 27 :

"24. We have considered the rival submissions. In our view, Mr. Sharma was right when he submitted that on the basis of evidence before it the Tribunal has given findings of fact that the Deposit Collectors were workmen within the meaning of Section 2(s) of the Industrial Disputes Act. On the evidence on record it could not be said that this finding was unsustainable. Having been shown the relevant evidence we are also of the opinion that the Tribunal correctly arrived at a conclusion that these deposit Collectors were workmen.

25. Further, as seen from Section 2(rr) of the Industrial Disputes Act, the commission received by Deposit Collectors is nothing else but wage, which is dependent on the productivity. This commission is paid for promoting the business of the various banks.

26. We also cannot accept the submission that the banks have no control over the Deposit Collectors. Undoubtedly, the Deposit Collectors are free to regulate their own hours of work, but that is because of the nature of the work itself. It would be impossible to fix working hours for such Deposit Collectors because they have to go to various depositors. This would have to be done at the convenience of the depositors and at such times as required by the depositors. If this is so, then no time can be fixed for such work. However, there is control inasmuch as the Deposit Collectors have to bring the collections and deposit the same in the banks by the very next day. They have then to fill in various forms, account, registers and passbooks. They also have to do such other clerical work as the Bank may direct. They are, therefore, accountable to the Bank and under the control of the Bank.

27. We also see no force in the contention that Section 10 of the Banking Regulation Act prevents employment of persons on commission basis. The proviso to Section 10 makes it clear that commission can be paid to persons who are not in regular employment. Undoubtedly the Deposit Collectors are not regular employees of the Bank. But they, nevertheless, are workers within the meaning of the term as defined in the Industrial Disputes Act. There is clearly a relationship of master and servant between the Deposit Collectors and the Bank concerned."

The decision clearly applies to the facts of this case as both these cases relate to commission agents of banks. There can be no doubt therefore that the workman in the instant case is a person coming under Section 2 (s) of I.D. Act. If so, can he be terminated or service stopped without notice ? Section 25-F of the Act reads as follows :

"25-F. Conditions precedent to retrenchment of workman.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until —

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government. (or such authority as may be specified by the appropriate Government by notification in the Official Gazette).

If the workman is retrenched the conditions mentioned at (a) to (c) u/s-25-F have to be followed by the employer. Section 2 (00) defines retrenchment. It reads :

"2(00). "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include —

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill health."

Sub-clauses (a) to (c) u/s2 (oo) are cases which are excluded from the definition of the retrenchment. In the instant case sub-clauses (a) to (c) are not attracted. Hence the termination of service of the workman is a retrenchment defined u/s2 (oo) of the Act. If so, as per Section 25-F the workman is entitled to get one month's notice or in lieu of notice wages for the period of notice and compensation equivalent to 15 days' average pay for every completed year of continuous service. Admittedly no notice was issued or compensation in lieu of notice or retrenchment compensation equivalent to 15 days average pay for every completed year was paid. The workman was in continuous service for more than 8 years as contemplated u/s 25-B of the Act. Though the workman in this case was not a regular employee the liability of the bank to follow the procedure under the provisions of I.D. Act cannot be dispensed with so long as he is a workman. Though the scheme was stopped the non-employment falls under Section 2 (oo) and hence the bank cannot say that the provision of I.D. Act are not applicable. The stoppage or termination of service, therefore, is illegal.

11. **Point No. (3):**

Though the claim is for reinstatement, since the deposit scheme is not in existence he cannot be reinstated as an agent under the Balakshema deposit scheme. Though the workman has a case that juniors to him were retained by the bank the evidence reveals that there was only one agent in Tripunithura branch of the bank and there is no seniority list of all the agents working in different branches. Therefore there is no post at all to which the workman can be reinstated as agent. It has come out in evidence that there is another scheme called NNND. It is not a new scheme but was functioning since a long time even prior to his termination. The workman cannot claim as a matter of right for employment in another scheme or employment in regular service of the bank. Unless there is a vacancy in the cadre he belonged he cannot seek reinstatement. The question of absorption in the bank also does not arise in view of the recent decision of Hon'ble Supreme Court reported in (2006) 4 SCC 1 Secretary, State of Karnataka *Vs.* Umadevi. Paragraphs 28, 29, 43 & 47 contain the relevant discussion as to whether contractual and ad hoc employees, casual workers, temporary workers, etc. can be absorbed in regular service or not. Paragraphs 28 & 29 read :

"28. In Director, Institute of Management Development, U.P. v. Pushpa Srivastava this Court held that since the appointment was on purely contractual and ad hoc basis on consolidated pay for a fixed period and terminable without notice, when the appointment came to an end by efflux of time, the appointee had no right to continue in the post and to claim regularization in service in the absence of any rule providing for regularization in service after the period of service. A limited relief of directing that the appointee be permitted on sympathetic consideration to be continued in service till the end of the calendar year concerned was issued. This Court noticed that when the appointment was purely on ad hoc and contractual basis for a limited period, on the expiry of the period, the right to remain in the post came to an end. This Court stated that the view they were taking was the only view possible and set aside the judgement of the High Court which had given relief to the appointee.

29. In Madhyamik Shiksha Parishad, U.P. *vs.* Anil Kumar Mishra a three-Judge Bench of this Court held that ad hoc appointees/temporary employees engaged on ad hoc basis and paid on piece-rate basis for certain clerical work and discontinued on completion of their task, were not entitled to reinstatement or regularization of their services even if their working period ranged from one to two years. This decision indicates that if the engagement was made in a particular work or in connection with particular project, on completion of that work or of that project, those who were temporarily engaged or employed in that work or project could not claim any right to continue in service and the High Court cannot direct that they be continued or absorbed elsewhere."

The relevant portion of paragraph 43 reads:

"43. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued.

Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is entitled to be absorbed in regular service or made permanent merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment do not acquire any right."

Para 47 reads :—

"47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The state cannot, constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

In the light of the reasons stated above I find that the remedy available for illegal termination of service is as envisaged u/s 25-F of the Act for notice or compensation in lieu of the notice and retrenchment compensation equivalent to 15 days' average pay for every completed year of continuous service or part in excess of six months. The point is answered accordingly.

12. In the result, an award is passed finding that the termination of service of the claimant is illegal and in violation of the provisions of I.D. Act and the workman is entitled to the benefits u/s 25-F of I.D. Act. No costs. The award will take effect one month after its publication in the official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 31 st day of August, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX:

Witness for the Workman :

WW1 — Shri C. Rajendran

Witness for the Management :

MW1— Shri R. Venkateswaran.

Exhibits for the Workman:.

W1— Photostat copy of application dated 21.10.1986 issued by the management.

W2 — Photostat copy of the appointment letter dated 31.10.1989 issued by the management to the workman.

W3 — Photostat copy of Identity card issued to the workman.

W4 — Photostat copy of Circular No.109/94 dated 19-4-1994.

W5 — Photostat copy of letter sent by the workman to the Dy. General Manager, Canara Bank, Circle Office.

W6 — Photostat copy of the letter No. TMI/252/1193/96-97/NSK issued by the management.

Exhibits for the Management:

M1 — Certified copy of Savings Bank A/c Ledger in r/o the workman.

नई दिल्ली, 22 सितम्बर, 2006

का. आ. 4117—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कॉ. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 130/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-06 को प्राप्त हुआ था।

[सं. एल-30012/53/97-आई आर (सी-I)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 130/98) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Oil Co. Ltd. and their workmen, which was received by the Central Government on 21-9-2006.

[No. L-30012/53/97-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

R. N. RAI, Presiding Officer

I. D. No. 130/1998

IN THE MATTER OF :

Shri Prithvi Raj & Ors.,
C/o Delhi Multi Storeyed Building Employees Congress,
Through its General Secretary,
12-B, Vandana Building, Basement,
11, Tolstoy Marg,
New Delhi.

Versus

The Manager (IR),
Indian Oil Corporation,
(Marketing Division),
World Trade Centre,
Babar Road,
New Delhi-110001.

AWARD

The Ministry of Labour by its letter No. L.-30012/53/97 IR(C-I) Central Government dated 09-06-1998 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the demand of the union that the services of the contract labourers namely Shri Prithvi Raj and others working as Security Guards in the premises of the management of Indian Oil Corporation Limited be regularised w.e.f. the date of their joining (as shown against their name as per list enclosed) by the management of Indian Oil Corporation Limited who is the principal employer, is justified? If so, to what relief the concerned contract labourers/workmen are entitled and from what date?"

The workmen applicants have filed claim statement. In the claim statement it has been stated that the facts and circumstances giving rise to the present statement of claim are that the workers represented by the claimant union have been working as security guards continuously without any break for the last over 7-8 years for the respondent/management. The list of workers with their dates of joining etc. is annexed and marked as Annexure A.

The respondent (hereinafter referred to as the management) is a Government of India undertaking. It has with ulterior motives to deprive the workers of security of job and equal wages, employed the workers ostensibly through different contractors. The contractor is and has always been only name lender with no control if any kind over the workers, their employment and their terms and conditions of service. The workers have been working under the direct control and supervision of the management. The engagegment of these workers through the contractor is only a camouflage and if the veil is lifted it would be revealed that there is a direct employer and employee relationship between the management and the workers. The engagement of the workers through the contractors is basically for monetary and other gains as the claimant workers are being provided much less wages than the regular employees.

It is submitted that the work of watching in the building where the workers represented by the claimant are working is of permanent and perennial nature as is established by the issuance of the notification. This union has already filed a writ petition before the Hon'ble High Court of Delhi praying for the absorption of these workers on the ground of the issuance of notification. The present statement of claim is confined to the ground that the engagement of the workers through the contractor is a camouflage.

That the workers in the above statement of claim thus made a representation to the management to absorb them in regular service against their existing post and to look into their grievances regarding payment of wages by the contractors. However, the needful has not been done.

That the workers through its union had filed statement of claim before the ALC praying for starting immediate conciliation proceedings and for a direction to the respondent No. 1/management to regularise the services of the workers named in Annexure A and in the case of failure of the conciliation proceedings for referring the matter to the Industrial Tribunal for adjudication.

That the conciliation proceedings having failed the matter has been referred to this Hon'ble Tribunal for adjudication.

In the premises mentioned above it is most respectfully prayed that this Hon'ble Court/Tribunal be pleased to regularise the services of the workers named in annexure A with all consequential benefits and pass such other and further orders as this Hon'ble Court deems fit and proper in the circumstances of the case.

The respondent/rnanagement has filed written statement. In the written statement it has been stated that the claimants have themselves stated that they have gone to the High Court by way of a writ petition which is pending adjudication. The applicants cannot be allowed

to pursue two remedies at the same time seeking same or similar relief. The relief sought by the workmen in the pending other writ petition No. 889/97 is reproduced below :—

> "Issue an order, writ order or direction declaring that the petitioners workers named in Annexure A attached are the direct employees of the respondent No. 2 or in the alternative directing the respondent No. 2 to absorb/regularise the services of the workers mentioned in Annexure A in their existing services/posts w.e.f. initial appointment through the contractor."

The relief claimed in the present statement of claim is as follows :—

> "To regularise the services of the workers named in Annexure A with all the consequential benefits."

The reference is liable to be rejected on this ground.

That the averments made by the claimants and the terms of reference clearly indicate that they are seeking regularisation with the management on the basis that they are the security guards working with the security contractor. The disputes about the contractor labour and the conditions of service are regulated under the provisions of the Contract Labour (Regulation & Abolition) Act, 1970. The said Act being a comprehensive provision of law is a complete code in itself and the reference under the provision of the ID Act is, therefore liable to be rejected.

That the contents of para 1 are wrong and denied. It is stated that the union is making false and baseless pleas. The list of workers as given in Annexure A had only been supplied to the management on 4th July, 2000. The case was first head by the Tribunal on16-11-1998 and the union for ulterior and malafide purposes took numerous adjournments. Even in the present claim statement or in the Annexure no details are supplied about the alleged security guards.

That the contents of para 2 as stated are wrong and denied. It is admitted that the management is a Government of India Undertaking. The other allegations made in this paragraph are wrong and emphatically denied. It is stated that as per the Government of India instructions issued by the Ministry of Home Affairs the security operations in the various units/locations/offices of the management have to be undertaken by the security agencies sponsored by Director General of Resettlement. The names of the security agencies are forwarded by the said Directorate and it is as per the Government policy that the security to the Government institutions is provided by such agencies. It is stated that it is not like in ordinary watch and ward duties but requires sophisticated surveillance security etc. it is a specialized job to be performed in the various offices/locations/units respondent/management and it is entrusted to the outside agencies in the interest of security of a public institution. It is emphatically denied that the supervision and control over the guards is exercised by the management. It is stated that the security agencies are normally headed by ex-army personnel who are supervising and controlling the security guards under them who also happen to be ex-army people.

That the contents of para 3 are wrong and denied. The Hon'ble Delhi High Court has already decided that the notification relied on by the claimants is not applicable in the case of security services utilized by the management. Further, the assertion on behalf of the union that they have gone to the Hon'ble High Court itself disentitles them to claim any relief before the Hon'ble Court. It is submitted that the union cannot be allowed to claim the same relief in two forums. The averments of the union that they only rely on the contract camaflouge is untenable. It is stated that a legal contract has been entered with independent agencies in accordance with the sponsorship of the Director General of Resettlement.

That the contents of para 4 are wrong and denied. The union has failed to point out any particular statement but has made vague wild allegations.

The workmen applicants have filed rejoinder. In their rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the claimant that 23 workmen have been engaged for the purposes of Security through various agencies. The list contains the names of 27 workers but Shri Vir Bahadur has expired and Shri Ramesh Tiwari, Shri Jitender Singh & Shri Lumb Bahadur have left the work. So 23 workmen have been working. Some of them have been engaged since 1987, 1991 and 1990. The date of joining of the workmen has been mentioned in the Annexure to the claim statement.

It is further submitted that these workmen have been taken through contractors but contractor is name lender only. All the workmen discharged the duties under the control and supervision of the respondent. My attention was drawn to attendance sheet of these workers. Attendance is being taken by the management. Leave is also sanctioned by the management. The duties are assigned to these workers by the management at different places. These workers work under the supervision of the management. Day to day duties are being performed by the Security Guards. The work is of regular and perennial nature. The work has always been existing since the employment of these contract labourers.

It was submitted from the side of the management that they have been engaged by the contractor so the engagement of these workmen has been admitted by the respondent/management. ESI and EPF of these workmen are being deposited through by the contractor. From perusal of the document annexed with the records it becomes quite obvious that the workmen have been working under the control and supervision of the management/respondent.

It was submitted from the side of the management that since the Hon'ble Delhi High Court is seized of the matter under reference, the Tribunal has no jurisdiction to decide this case. The matter under reference before the Hon'ble Delhi High Court is regarding quashing of the abolition of contract labour. It was submitted from the side of the workmen that the refernece is not regarding quashing of the notification or demand for abolition of the contract labour. The demand is for examining the actual reality behind the facade. After piercing the veil it is to be examined whether there exists actual contract labour system or it was only to make belief. It has been held by the Hon'ble Gujarat High Court in LLR 1991 Page 573 that it is within jurisdiction of the Tribunal to examine the reality behind the facade of paper arrangement of contract labour system.

The Tribunal has to examine relationship between the management and the workmen. It is to be examined whether there exists master and servant relation or not. It has been held in 1999 Lab I.C. 825 that the Tribunal can give findings that contract between the Company and its contractors is sham and bogus. The finding will not obviously abolish the contract labour system so the matter referred to here is regarding the factual finding whether contract is sham and bogus. There is no reference regarding abolition of contract labour. In the instant case the workmen worked for continuously for 365 days and the Hon'ble Gujarat High Court found the work to be of perennial nature. In the present case also almost 27 workmen have been working since 1993. The contractors have changed every year as per the admission of the management witness. 27 workmen have been performing work since 1993. The workmen worked in the establishment of the management. The management has control and supervision over the contractor's men, the workmen remaining the same. The contract is changed every year so certainly this is a facade of the papers and contract is camouflage and sham and bogus. The entire establishment is owned and maintained by the management where the contractor's men are employed. The contract is not genuine one.

It was submitted from the side of the workmen that the CLRA 37 of 1970 is a act to further social welfare and general interest of the community. The contract labour is to be abolished whenever the contract is found sham and not genuine. In the instant case the contractor is only name giver. The workmen are under the control and supervision of the management. There is no proof that money is paid to the contractor and the contractor pays to its workmen. The management makes payment of wages to the workmen directly.

It has been held by the Hon'ble Supreme Court in AIR 1986 SC I—workmen ARI Ltd. Versus ARI Ltd. Bhaw Nagar that the Tribunal has jurisdiction to examine the reality behind the facade of paper arrangement of contract labour system so according to the judgment of the Apex Court the Tribunal can examine the genuineness or otherwise of the contract labour. I find no force in the argument of the management.

It was further submitted that the management is an instrumentality of the Central Government. They are charged with the duties of discharing their functions in a fair and just manner. They are expected to act justly and fairly and not arbitrarily or capricatiously. The management has not been acting fairly impartially and reasonably. It is their duty to act fairly. Despite the report of the Basudevan Committee they went on engaging contract labour in the LPG Plants but no heed was paid by the management and they went on engaging the same workers in the fake name of different contractors. Contractors have been changed but the workmen remain the same. It is almost the admitted case of the management. The management witness could not say whether the workmen have remained and the contractors have changed.

The Hon'ble Supreme Court in AIR 2001 SC 3527 has held that the industrial adjudicator will have to consider the question whether the contract has been interposed either on the ground of having undertaken to produce any given result for the establishment or suply of contract labour for work of the establishment under the genuine contract or whether it is a mere ruse/ camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefits there under. If the contract is not genuine the alleged contract labour should be treated as the employees of the principal employer who shall be directed to regularize the services of the contract labour in the concerned establishment. In the instant case it is proven fact that the contractors are mere name givers and job lenders. The workman work under the control and supervision of the management.

It has been held in AIR 1953 SC 404 that if a master employs a servant and authorize him to employ a number of persons to do a particular job and to guarantee their fidelity and efficiency for cash consideration, the employees thus appointed by the servant will be equally with the employer servant of the masters. In the instant case there is no servant to employ a number of persons. The name of the contractor is fake one. The wrokmen have been retained in the service of the management

since 1993. 27 workmen have been working continuously since 1993 and they have become an asset to the management.

It has been held in 1997 AIR SCW Page 430 that the industrial adjudicator should decide whether there is valid contract or it is a mere ruse/camouflage and if it is found that the contractor is only a name lender the management should be directed to regularize the workmen. in JT 2003 (1) SC 465—the Hon'ble Supremen Court has held that industrial adjudication is appropriate remedy for the alleged contract workers. In (2000) I SCC 126—the Hon'ble Supreme Court has held that there are multiple pragmatic approach/factors which should be considered in deciding employer and employee relationship. According to the criteria there should be control and integration. The management has doubtless control over the alleged contractor's men as they work in the establishment of the management. They are integrated to the service of the management. There are no terms and conditions of the contract so there is master and servant relationship. The creation of contract labour is only sham and camouflage and the employer cannot be relieved of his liabilities. According to this judgement of the Hon'ble Supreme Court at least 23 workmen are the employees of the management. There is employer and employee relationship.

In JT 1999 (2) SC 435—the Hon'ble Supreme Court has held that if the work is of the perennial nature or of sufficient duration, contract workers shall be considered to be the direct employees of the management and they are entitled to be absorbed permanently as employees of the management. The work in the instant case, no doubt, is of perennial nature as the workmen have been continuously working since 1993. It is for sufficient duration. So the alleged contractor's men will become the servant of the management. The management has some vested interest i.e. why the management is continuing the workmen since 1993 and in order to veil this reality the management is giving the name of several contractors every year. The management is doing violent injustice to the workmen. They have been deprived of the facilities and emoluments of regular employees since 1993. The intermediary has been introduced in order to deprive the workmen of their rights. The work is not of seasonal nature. Such workmen should not be deprived of their legitimate right.

The Ministry of Labour has abolished contract labour system in the management but still the management is continuing the same process. It prima facedly proves that the management has some vested interest and it is exploiting the workmen and is engaged in unwholesome labour practice. There cannot be a more serious and glaring violation of the beneficial legislation of the Contract labour (Regulation & Abolition) Act, 1970.

It was submitted from the side of the management that the workmen are the contractor's men and this Tribunal has not jurisdiction to regularize the workmen. Only the Central Government can abolish the contract labour and direct for regularization of the contractor's men. There is no merit in the argument of the management. The Hon'ble Supreme Court in a Catena of cases has decided that it the duty of industrial adjudicator to examine and give findings whether contract labour a sham and a mere camouflage to evade the responsibility of the management. It is admitted case that 23 workmen have been working continuously since 1993.

In Pollock Law of Torts a servant and an independent contractor has been defined as under :—

> The distinction between a servant and a independent contractor has been the subject matter of a large volume of case-law from which the text-book writers on torts have attempted to lay down some general tests. For example, in Pollock's Low of Torts, (Pages 62 & 63 of Pollock on torts, 15th Edn.) the distinction has thus been brought out :
>
> > "A master is one who not only prescribes to the workman the end of his work, but directs or at any moment may direct the means also, or, as it has been put, retains the power of controlling the work, a servant is a person subject to the command of his master as to the manner in which he shall do his work. .. . . An independent contractor is one who undertakes to produce a given result but so that in the actual execution of the work is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand . . . . . ."

In Salmond's Treatise on the Law of Torts the distinction between a servant and independent contractor has been indicated as under :—

> "What then, is the test of this distinction between a servant and an independent contractor? The test is the existence of a right of control over the agent in respect of the manner in which his work is to be done. A servant is an agent who works under the supervision and direction of his employer; an independent contractor is one who is his own master. A servant is a person engaged to obey his employer's orders from time to time; an independent contractor is a person engaged to do certain work, but to exercise his own discretion as to the mode and time of doing it—he is bound by his contract, but not by his employer's orders."

In the instant case the workmen performed the duties of watch and ward under the supervision, direction and the presence of the employer and not of the contractor. The security purposes of watching and

guarding the premises of the management is perennial in nature.The management retains the power of controlling the work so the workmen are the employees of the respondent/management. The test regarding independent contractor and intermediaries have been laid down in Hussainabhai, Calicut V. the Alath Factory Thezhilali Union Kozhikode [(AIR 1978 SC 1410 (3 Judges)] "the true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers subsistence, skill, and continued employment. If he, for any reason, chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom the workers have immediate or direct relationship ex contractu is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor. Myriad devices, halfhidden in fold after fold of legal form depending on the degree of concealment needed, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer, based on Articles 38, 39, 42, 43 and 43-A of the Constitution. The Court must be astute to avoid the mischief and achieve the purpose of the law and not be misled by the maya of legal appearances."

This case law has been affirmed by the Constitution Bench Judgment in Steel Authority of India. In case the security job chokes off, the workmen would be laid off. Such contract is prohibited, it is not a contract for a given result.

My attention was drawn to the Constitution Bench Judgment in Scale (2006) 4 Scale. It has been held in this case as under :—

> "A. Public employment in a sovereign socialist secular democratic republic, has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark and the Constitution has provided also for affirmative action to ensure that enequals are not treated equals. Thus, any public employment has to be in terms of the constitutional scheme.
>
> B. A sovereign Government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. Going by a law newly enacted, the National Rural Employment Guarantee Act, 2005, the object is to give employment to at least one member of a family for hundred days in an year, on paying wages as fixed under that Act. But, a regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule."

It was submitted that in view of this Constitution Bench Judgment an employee cannot be regularized even if he has worked for any number of years.

My attention was drawn to another Constitution Bench Judgement—Steel Authority of India. It has been held as under :—

> "Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workmen. But where a workman is hred in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question might arise whether the contract is a mere camouflage as in Hussainabhai Calicut's case (supra) and in Indian Petrochemicals Corporation's case (supra) etc; if the answer is in the affirmative, the workmen will be in fact an employee of the principal employer, but if the answer is in the negative, the workmen will be a contract labourer."

In the instant case the workmen have not been hired in connection with the work of a contractor but they have been hired by the contractor for the work of the respondents. So in the instant case there is contract of service between the principal employer and the workmen. In view of the judgment the workmen become the employees of the management.

The Constitution Bench Judgment of Steel Authority of India is squarely applicable in the instant case. In JT 2001 (7) SC 268 it has been held that "121(5) On issuance of prohibition notification under Section10(1) of the CLRA Act prohibiting employment of Contract Labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine conract or is a mere ruse/camouflage to evade

compliance with various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the establishment concerned."

It has been held in this case that whether there is prohibition of contract labour or otherwise the industrial adjudicator will have to consider the question and in case the contract appears ruse and camouflage to evade compliance with various beneficial legislations the so called contract labour will have to be treated as the employee of the principal employer and he shall be directed to regularize the services of the contract workers.

Engagement of contract workers for perennial and regular nature of job is prohibited. The security functions is a perennial nature of job. So long as the respondents exists there would be need of security for them, so the work is of existing, continuous and perennial in nature for such work contract workers cannot be employed.

"According to well recognisation definition of contract it is an agreement for a given result. The result should be visible. Contract labourers can be engaged for the work of contractor only and not for the work of any establishment. In the present case the work is of the establishment and not of the contractor. The term supply of labour by a contractor is against human dignity. No one can be a supplier of human labour to any establishment. It is the duty of State to give employment to citizen and not of the contractors. Contractors cannot supply labour to any establishment."

In view of the above discussion it becomes quite obvious that the contractors workmen in the instant case have been retained all along and contractors have been changed. So the contractor is only a label of a bottle. This label is changed from time to time but the contents of the bottle always remain the same. The contractors have been charged and the workmen have been retained. Such a system is inhuman. The contractors are the direct employees of the respondent/management and they deserve to be regularized. The law cited by the management is not applicable in facts and circumstances of the present case.

The reference is replied thus :—

The demand of the Union that the services of the contract labourers namely Shri Prithvi Raj and others working as Security Guards in the premises of the management of Indian Oil Corporation Limited be regularized w.e.f. the date of their joining (as shown against their name as per list enclosed) by the management of Indian Oil Corporation Limited who is the principal employer is justified. The respondent/ management is directed to regularize the workmen within two months from the date of the publication of the award.

Award is given accordingly.

Dated : 06-09-2006 R.N. RAI, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2006

का. आ. 4118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एरनाकुलम के पंचाट (संदर्भ संख्या 13/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-06 को प्राप्त हुआ था।

[सं. एल-11012/18/2005-आई आर (सी-1)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2005) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India and their workman, which was received by the Central Government on 21-9-2006.

[No. L-11012/18/2005-IRC(C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERANAKULAM

PRESENT : Shri P.L. Robert, B.A., L.L.B., Presiding Officer

(Wednesday the 06 day of September, 2006

I. D. No. 13/2005.

Workman/Union	P. Ramesh S/o Palappan Piranivilai House Pacode Post, Vilarancode Taluk Kanyakumari District Tamil Nadu.
	Adv. Shri Sanu S. Panicker
Management	The Assistant General Manager (Personal), Air India Unity Complex, Pallavarm, Chennai-43.
	Adv. Shri Joseph Kodianthara.

AWARD

This is a reference made by Central Government under Section 10(1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

> "Whether the action of the management of Air India in stopping Shri P. Ramesh, casual loader from work is justified? If not, to what relief is the workman entitled?".

2. The facts in brief are as follows:—

According to the petitioner he was working as casual labourer in Air India, Trivandrum as Handyman from 8-5-2002 to 3-5-2004. Thereafter he was not allowed to enter the working place and gate pass was not issued to him. No valid reasons were disclosed to him for not allowing him to work. He was not given any order of termination. Thereafter the management appointed fresh casual labourers. The workman made a representation on 12-6-2004 for taking him back for work. There was no response. Thereafter the management told the workman that some other person was selected in the place of the claimant. About 20 persons were appointed as casual labourers after termination the service of the claimant. A request by the claimant for experience certificate was rejected by the management. The conduct of the management amounts to unfair labour practice. Persons like the claimant were directed to be regularized by an order of Industrial Tribunal, Madras. Due to the employment in Air India the registration of the claimant in the employment exchange was cancelled by the employment exchange. Therefore the claimant was not able to seek further employment in any other department. For the wrongful act of the management the claimant is entitled for compensation. The claimant is entitled to be reinstated and to get compensation for mental agony, loss of employment and wrongful act of the management.

3. The management filed written statement contending that the claimant was a casual worker in respondent's establishment. He has no right to raise an industrial dispute. The reference is not maintainable. Fresh recruitments are banned by the Ministry. The need for engagement of casual workers is fluctuating and not uniform. The claimant was engaged as casual labourer from August, 2002 to May 2003 intermintently for 107 days only. There was no requirements thereafter. It is not correct to say that the claimant worked till 3-5-2004. Being a casual labourer no right for appointment accrues to him. The appointment in Air India is made after advertisement. There is no practice of issuing experience certificate to casual workers. After May, 2003 the claimant had never approached the respondents seeking continuance in service. He has no legal right for employment and cannot question engagement of other casual workers. He is also not entitled for regularization. Since there was no requirement of engaging the claimant after May, 2003 he cannot claim wages thereafter. The claimant is not entitled to any relief.

4. In the light of tha above pleadings, the following points arise for consideration:

(1) Is the reference maintainable?

(2) Is the termination of service legal?

(3) To what relief the workman is entitled?

The evidence consists of the oral testimony of WW1 & WW2 and documentary evidence of Exts. W1 to W7(a) on the side of petitioner and MW1 on the side of management.

5. Point No. (1) :

The workman was engaged as casual labourer in Air India at Trivandrum admittedly. His services were stopped by the management abruptly without notice. The workman raised an industrial dispute and that was referred to this court by the Central Government u/s 10(1)(d) of I.D. Act. The management is now questioning the maintainability of the reference. According to them no industrial dispute can be raised by a casual labourer. Section 2(s) of I.D. Act defines workman which is a very wide definition and takes in also casual worker. Section 2A says that when an employer discharges, dismisses, retrenches or otherwise terminates the service of an individual workman, any dispute arising out of such discharge, dismissal etc. shall be deemend to be an industrial dispute not withstanding that, no other workman or any union of workmen is a party to the dispute. Thus after the enactment of Section 2A it is not necessary that a dispute relating to the dismissal, discharge, retrenchment etc. of a workman must be sponsored by a trade union or a substantial number of workmen (1961-I-L.L.J. 834 (SC) Ram Razak Vishwakarma v. Industrial Tribunal). Besides it is held in workmen v. Hindustan Lever Ltd. (1984) 4 SCC 392 at paragraph 1 & 4 as follows:—

> "1. It is most unfortunate that all those unhealthy and injudicious practices resorted to for unduly delaying the culmination of civil proceedings have stealthily crept in, for reasons not unknown, in the adjudication of industrial disputes for the resolution of which an informal forum and simple procedure were devised with the avowed object of keeping them free from the dilatory practices of civil courts. Times without number this Court, to quote only two D.P. Maheswari v. Delhi Administration and S.K. Verma v. Mahesh Chandra disapproved the practice of raising frivolous preliminary objections at the instance of the employer to delay and defeat by exhausting the workman the outcome of the dispute yet we have to deal with the same situation in this appeal by special leave.

4. Section 10 (1) confers power on the appropriate government to refer an existing or apprehended industrial dispute, amongst others, to the Industrial Tribunal for adjudication. The dispute therefore, which can be referred for adjudication, of necessity, has to be an industrial dispute which would clothe the appropriate Government with power to make the reference, and the Industrial Tribunal to adjudicate it."

In the light of the above decision as well as in view of the definition of workmans 2(s) and the provision u/s-2A of the Act the contention of the management, challenging the maintainability of the reference, is not tenable and the point is answered against the management.

6. Points No. (2) & (3) :

The workman was a casual labourer posted as Handyman on 8-5-2002 at Trivandrum Airport. According to the workman he continued to work as casual labourer till 3-5-2004 for a total number of 275 days. The management disagrees and denies the duration of the period. According to them though he started working from 8-2-2002 his services were dispensed with by May, 2003 and total number of days he had worked is only 107. Other than reiterating the contention of the workman when he was in the box no documentary evidence is produced to prove that he did work till 3-5-2004. The only piece of evidence that is available on record regarding his length of service is Ext. W3 dated 3-4-2003. It is a Photostat copy of cheque issued by the management towards remuneration for certain period prior to 3-4-2003. No other cheques are produced by the workman. If he had worked after 3-4-2003 and had received remuneration there must be record to show that. Besides it is stated in the claim statement that he is entitled to get arrears of salary from 1-5-2003 to 3-5-2004. Other than the contention in the claim statement it appears that no demand was made to the management to pay the wages for the period from 1-5-2003 to 3-5-2004. It is arrears for a year. Yet he did not make a demand. Ext. W1 is a letter dated 12-6-2004 sent to the management by the workman requesting for continuance in service and issuance of entry pass and also requesting for an experience certificate. Yet he did not claim arrears of wages that he claims now. It is for the first time that a demand for arrears of wages is made in the claim statement. He had also submitted an application for appointment (Ext. W2 dt. 6-12-2004). No entry pass for the period after May, 2003 till 3-5-2004 is produced or at least the latest entry pass, is produced to show that he was working till 3-5-2004. The management has emphatically denied the claim of the workman that he was working so long, as claimed by him. WW2 was examined to prove that after stopping the service of the workman, in his place WW2 was appointed. But then WW2 was in box he said that he was taken by Air India on 29-8-2003 and he worked there till 31-3-2004. He has produced entry pass Ext. W5, copy of application Ext. W6 and copies of two cheques showing receipt of remuneration from Air India, Exts. W7 & W7(a). In the cross-examination he said that during the period WW2 worked in Air India the claimant was not working there.

"ഞാൻ ജോലി ചെയ്ത കാലയളവിൽ ഈ കേസിലെ വർക്ക്മാൻ അവിടെ ഉണ്ടായിരുന്നില്ല."

Thus the very witness who has to support the claimant has given evidence which is against him. If the claimant has worked till 3-5-2004, even before his termination WW2 was terminated on 31-3-2004. Hence the claimant cannot say that WW2 was employed in his vacancy. Besides, as I have already mentioned there is absolutely no record to show that the claimant had been working till 3-5-2004. The date admitted by the management is May, 2003. If that be so, the number of days the claimant had worked was only 107 days as contended by the management and not 275 days as contended by the claimant. According to the management the work was intermittent and not continuous. Though the claimant when he was in the box denied that his work was not continuous, it is evident from the very claim statement that though he was working from 8-2-2002 to 3-5-2004 the total number of days he claims to have worked is only 275 (during a period of two years). It means that the work was not continuous, but only intermittent. Since the claimant has failed to produce sufficient materials to prove how long he had been working, it is not possible to accept his contention that he was working for 275 days. In the circumstances the case of management has to be accepted. Hence I find that the claimant has worked only for 107 days.

7. Section 2(s) of I.D. Act defines workman. It is a very wide definition and takes in also casual worker.

Section 2(oo) defines retrenchment as follows:

"2(oo). "retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include —

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination of the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill-health;'

Section 25F refers to conditions precedent to retrenchment of a workman. It refers to three conditions to be applied before retrenchment namely, that he should be given one month's notice in writing or in lieu of notice, wages for the period of notice, that he should be paid retrenchment compensation equivalent to 15 day's average pay for every completed year of continuous service and that notice has to be given to appropriate govemment.

Section 25B defines continuous service. The relevant portion of the Section reads as follows:

"25B. Definition of contininous service. For the purposes of this Chapter,

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i). .....

(ii). Two hundred and forty days, in any other case;"

None of the other clauses of Section 25B is applicable in the instant case. Though the claimant is a workman defined U/s 2(s) of the Act unless he has put in service of 240 days during the period of 12 calendar months preceding his termination he will not be covered by Section 25F of the Act in order to claim notice or wages in lieu of notice or retrenchment compensation. So far as the present case is concerned, the claimant has workmed only 107 days during the whole peiod of his service from 8-5-2002 to May, 2003. Hence he has no right under the provisions of I.D. Act for compensation of any kind.

7. The question of absorption or regularization does not arise at all as he was merely a casual employee and in view of the recent decision of Hon'ble Supreme Court in 'Secretary State of Kamataka *v.* Umadevi (2006) 4SCC 1'. In paragraphs 28, 29, 43 & 47 it is observed that *no ad hoc* and contract labour or casual employee or temporary employee shall be entitled for reinstatement or regularization even if they were working for more than one year. It is held that if the appointment is contractual appointment it comes to an end at the end of the contract. If it is an engagement or appointment on daily wage or casual basis the same would come to an end when it is discontinued. Similarly a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It is clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of appointment, he would not be entitled to be absorbed in regular service or made permanent merely on the strength of such continuance if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employement has come to an end or of *ad hoc* employees who by the very nature of their appointment do not acquire any right (para 43).

8. The learned counsel for the claimant relied on the decision in State of Haryana. *v.* Piara Singh (1992) 4 SCC 118 to canvass for a position that a casual employee shall not be substituted by another casual employee, but only by a regular employee. But in this case the main issue that was discussed, was regularization. No. doubt, in paragraph 46 of the judgement it is observed that *ad hoc* or temporary employee should not be replaced by another *ad hoc* or temproray employee and that he should be replaced only by a regularly selected employee. This was to avoid arbitrary action on the part of appointing authority. This observation was made while mentioning that an *ad hoc* employee or temporary employee may, like any other applicant, compete in the test for regular recruitment. So far as the claimant is concerned, he was in the servlce of Air India till May 2003. WW2 who is said to be a substitute for the claimant had joined the service of Air India on 29-8-2003 and he worked there till 31-3-2004. It is after 3 months of the termination of the service of claimnat that WW2 was taken. No doubt he deposed that he was taken in service in place of the claimant. Other than his statement there is no other supporting evidence. The management has denied that WW2 was a substitute for the claimant. It is after 3 months that WW2 was taken and posted in the loading Section. There were other casual workers like the claimant and WW2 in the same section of the department. It is contended in the claim statement that about 240 casual workers were engaged by the management after the appointment of claimant and 20 casual workers in the loading section were taken after the termination of the claimant. There is no material to prove the same. The appointment of WW2 was 3 months after the termination of service of the claimant and appointment was on casual basis. There is no record to prove that WW2 was a

substitute for the claimant. The claimant cannot blow hot and cold at the same time, saying that he had worked till 3-5-2004 and that WW2 was taken as a substitute for him. This case of the claimant is inconsistent and cannot go together. There were a number of casual workers in the same section where claimant was working. Some were terminated and some were taken afresh. Without sufficient records it is not possible to say that WW2, engaged after a gap of 3 months from the date of termination of the service of claimant, is a subsititute for claimant. In the light of the above circumstances and reasons I find that the claimant has not acquired any right whatsoever either for reinstatement as casual labourer or for regulariztion or for retrenchment compensation. He has not even bothered to claim wage arrears said to have been not paid by Air India for a period of one year. There is not illegality in teminating the service of the claimant. Being a casual worker, his service came to an end the moment he was no more engaged by the managment. he has no right whatsoeve under the provision of I.D. Act and hence he is not entitled to any relief.

8. In the result, an award is passed finding that the action of the management in stopping the service of casual worker, Shri P. Ramesh is legal and justified and the workman is not entitled to any relief. No. costs. The award will take effect one months after its publication in the official Gazette.

Dictated to the Personal Assistant, tanscribed and typed by her, corrected and passed by me on this the 6th day of September, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Union:

WW1- P. Ramesh

WW2- G.N. Sisubalan

Witness for the Managment:

MW1- S. Iyyaswami.

Exhibits for the Union:

W1- Photostat copy of letter dated 12-6-2004 sent by workman to management.

W2- Photostat copy of applicantion dated 6-2-2004 submitted by workman to management.

W3- Photostat copy of cheque dated 3-4-2003 issued by managment to workman.

W4- Photostat copy of advertisernent dated 23-2-2004 published in a Tamil Daily.

W5- Photostat copy of Daily Permit issued to Shri Sisubalan.

W6- Photostat copy of application dated 8-8-2003 submitted by Shri Sisubalan to the Bureau of Civil Aviation Security.

W7- Photostat copy of Cheque dated 6-10-2003 issued to Shri Sisubalan by management.

W7(a)- Photostat copy of cheque dated 5-3-2004 issued to Shri Sisubalan by management

Exhibits for the Management:

Nil.

नई दिल्ली, 22 सितम्बर, 2006

का. आ. 4119—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 77/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-06 को प्राप्त हुआ था।

[सं. एल-20012/599/2000-आई आर (सी-1)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 77/2001) of the Central Govemment Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 21-9-2006.

[No. L.-20012/599/2000-IR(C-I]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, (NO.1) DHANBAD

In the matter of a reference under section 10(1)(d)&(2A) of Industrial Disputes Act, 1947

Reference No. 77 of 2001

PARTIES: Employers in relation to the management of Sijua area of M/s. BCCL

And their Workmen

PRESENT : SHRI SARJU PRASAD, Presiding officer.

APPEARANCES:

For the Employers : Shri D. K. Verma, Adv.

For the workman : Shri S.C. Gour Adv.

State : Jharkhand : Industry : Coal

Dated, 31-8-2006

AWARD

By order No. L. 20012/599/2000-(C-I), dated, 16-3-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Section (1) and Sub-section (2A) of sub-section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication of this Tribunal.

"Whether the action of the management of BCCL, Sijua Area in dismissing Sh. Jagdish Saw from service w.e.f. 10-11-99 is legal just and proper? If not, to what relief is the workman entitled?"

2. This case is pending since 17-4-2003 for taking proper step by the sponsoring union.

It appears from the record that the concerned workman Sri Jagdish Saw was dismissed from service, who is dead now. He was dismissed from service because a false death certificate was filed stating that he had died during service and his legal heir have opted for the retiral-cum-death benefit but it was transpired that the death certificate is false. Then, he was charge-sheeted and dismissed from service after enquiry.

Now, it has been again submitted that he had died in the year 2003 but none had appeared to be substituted in his place. Sri S.C. Gour who was the Adv. for the sponsoring union has stated that he had no instruction from the sponsoring union. He had already withdrawn his authority.

The management has examined witness in support of fair and proper domestic enquiry which has not been controverted by the sponsoring union.

Therefore, it appears that the concerned workman was dismissed from service after holding fair and proper domestic enquiry upon proved charges of misconduct of commiting fraud upon the management. Since, concerned workman had died, There is no industrial dispute existing now.

In the result, I render NO DISPUTE AWARD

SARJU PRASAD, Presiding Officer.

नई दिल्ली, 22 सितम्बर, 2006

का. आ.4120—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 141/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-06 को प्राप्त हुआ था।

[सं. एल-20012/475/98-आई आर (सी-I)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 141/99) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workmen, which was received by the Central Government on 21-9-2006.

[No. L-20012/475/98-IR(C-1]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, (No.1) DHANBAD

In the matter of a reference under Section 10(1)(d)&(2A) of Industrial Disputes Act, 1947

Reference No. 141 of 99

PARTIES: Employers in relation to the management of Kusunda Area of M/s. BCCL

And

their workman

Present : Shri Sarju Prasad, Presiding Officer.

APPEARANCES :

For the Employers : Shri H. Nath, Adv.

For the workman : None

State : Jharkhand Industry : Coal

Dated, 31-8-2006

AWARD

By order No. L. 20012/475/98-IR(C-I), dated, 4-6-99 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Section (I) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication of this Tribunal.

"Whether the action of the management of Kusunda Area of M/s. BCCL dismissing Sh. Harish Chandra Prasad, Dumper Khalasi of Khas Kusunda Colliery w.e.f. 5-8-90 is justified? If not, what relief the workman is entitled to?"

2. This reference was received on 15-6-99, but till date sponsoring union/concerned workman has not filed any written statement. Notices were issued to the sponsoring union by speed post on 24-7-2006 but inspite of that no written statement has been filed. Therefore, it appears that there is no dispute existing now.

Therefore, I render NO. DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2006

का.आ 4121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद I के पंचाट (संदर्भ संख्या 155/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-20012/135/99-आईआर (सी-1)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4121.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 155/99) of the Central Government Industrial Tribunal/Labour Court, Dhanbad I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-9-2006.

[No. L-20012/135/99-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (No. 1), DHANBAD.

In the matter of a reference under Section 10 (1) (d) & (2A) of Industrial Disputes Act, 1947.

REFERENCE No. 155 of 99

Parties: Employers in relation to the management of Amlabad Colliery of M/s. BCCL.

And

Their workman

Present: Shri Sarju Prasad, Presiding Officer.

Appearances:

For the Employer : Shri H. Nath, Adv.
For the Workman : None.
State : Jharkhand : Industry : Coal

Dated, 30-8-2006

AWARD

By order No. L-20012/135/99-IR (C-I), dated 16-7-99 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

"क्या बी. सी. सी. एल, धनबाद कोलियारी के प्रबंधतंत्र द्वारा श्री हैदरअली शाह को दिनांक 4-7-83 से ग्रुप-V के वेतन का लाभ यथा सुरक्षित रखते हुए कैट II में नियमित न किया जाना तथा उसके दस वर्ष पश्चात् दिनांक 4-7-83 से कैट. III में एस. एल. यू. न दिया जाना न्यायोचित है। यदि नहीं तो कर्मकार किस राहत के पात्र है, तथा किस तारीख से?"

2. This reference has been received on 3-8-99 and till date the sponsoring union/concerned workman has not filled any written statement/statement of claims. Notices were issued to the sponsoring union by speed post on 24-7-2006 but inspite of that no one appeared on behalf of the sponsoring union/concerned workman. Therefore, it appears that there is no industrial dispute existing now.

Therefore, I submit a NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2006

का.आ 4122.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कं. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नई दिल्ली- II के पंचाट (संदर्भ संख्या 109/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-30012/103/97-आईआर (सी-1)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 109/1998) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroliam Co. Ltd. and their workman, which was received by the Central Government on 21-9-2006.

[No. L-30012/103/97-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESIDING OFFICER : R. N. RAI.

I.D. NO.109/1998

IN THE MATTER OF:-

Shri Nandan Singh (Refuelling Operator) Deceased,
L/R Mrs. Devki Devi,
C/o. Shri Daya Chand,
Property Dealer,
Mahipalpur,
New Delhi-110037.

Versus

The Management of Hindustan
Petroleum Corporation Ltd.,
Through the General Manager (Marketing),
North Zone, Jeevan Bharti Building,
11th Floor, Tower-I, Connaught Circus,
New Delhi-110001.

AWARD

The Ministry of Labour by its letter No. L-30012/103/97-IR (Coal-I) Central Government Dated 17-04-1998 has referred the following point for adjudication.

The point runs as hereunder:—

"Whether in the circumstances of case reduction in scale from M-07 to M-05 of Shri Nandan Singh, Refuelling Operator is justified? If not, to what releif is the workman entitled?"

The Workmen applicant has filed claim statement in the claim statement it has been stated that M/s. Hindustan Petroleum Corporation Ltd,. hereinafter referred to as the "Management" is one of the leading Oil Companies, incorporated under the companies Act. The Management is engaged in the marketing and distribution of Petroleum products, having their zonal office for the North Zone at Jeevan Bharati Building, Connaught Circus, New Delhi-110001. That the workmen is question—Shri Nandan Singh Employee No. 994672-Refuelling Operator; Shri Jaskaran Singh Employee No. 541135—Heavy Vehicle Driver & Shri A.K. Pathania Employee No. 541273—T/T Helper are employed by the Management and are working for a number of years as regular and confirmed employees under the Management in the North zone presently headed by Shri S.P. Chaudhary, General Manager, North Zone of Hindustan Petroleum Corporation.

That the workmen are members of Petroleum workers, union, a registered trade union recognised by the Management.

That the workman Shri Nandan Singh was suspended pending enquiry *vide* order dated 25-3-1990 by the Management. He was issued a *charge-sheet* dated 9-4-1990. The charges were denied by the workman and the Management ordered an enquiry vide G.M.O. North Zone's letter MNZ:MSL : PEPRS dated 19th June, 1990, After the enquiry, the Disciplinary Authority Shri R. Dhir revoked the suspension of the workman and imposed a penalty of 'demotion from the position of Refuelling Operator—Grade M-07 to Crewman in Grade M-05. It was further ordered that Shri Nandan Singh will not be paid any salary and other benefits for the suspension period. The workman appealed against the order of the Disciplinary Authority to the Appellate Authority—Shri D.S. Mathur—Director Marketing (Officiating). The appellate authority *vide* order dated July 11, 1995 upheled the order of the Disciplinary Authority in a Mechanical manner and with a biased and prejudicial mind without considering the facts and the law; demoting the workman from the position of Refuelling Operator to Crewman in Grade M-05, and that the workman will not get any salary and other benefits for the suspension period.

Shri Jaskaran Singh & Shri A.K. Pathania were also suspended pending enquiry *vide* order dated 22-2-1991. The Management issued charge-sheets to the workmen *vide* G.M.O. North Zone's order No. MSL/PERS dated 29-4-1991. The charges were denied by the workman and the Management ordered an enquiry *vide* G.M.O. North Zone's letters No. MNA/MSL/PERS dated 12-6-1991. After the enquiry, the Disciplinary Authority Shri R. Dhir revoked the suspension of the workmen and imposed a penalty of demotion from H.V. Driver (Grade M-07) to Depot General Workman (Grade M-03) on Shri Jaskaran Singh and imposed a penalty of demotion from T/T Helper (Grade M-03) to General Workman (Grade M-01) on Shri A.K. Pathania. It was further ordered that the wages and other benefits for the suspension peiod i.e. from 22-2-1991 till the date of Joining—(12-8-1994) will not be payable to them.

The workmen appealed against these orders to the appellate authority. The appellate authority Shri H.L. Zutshi Director Marketing ordered on March 31, 1995—"I hereby modeify the order of the Disciplinary Authority one increment without cumulative effect" in the respective orders to Shri Jaskaran Singh and Shri A.K. Pathania. The workman were then directed to join on their original positions in Grade M-07 and Grade M-03 respectively.

The Management kept Shri Nandan Singh under suspension from 15-3-1990 to 7-11-1994 pending enquiry and kept Shri Jaskaran Singh and Shri A. K. Pathania under suspension pending enquiry from 22-3-1991 to 12-8-1994 for the alleged miconduct for which they were awarded punishments after domestic enquiry.

Since the Management in addition to the punishment awarded of demotion from Grade M-07 to M-05 from the rank of Refuelling operator to on Shri Nandan Singh crewman; and imposing a penalty of one increment without cumulative effect on Shri Jaskaran singh and Sh. A.K. Pathania refused to treat them on duty during the period of suspension and refused to make payment of their entitlements to the same wages as they would have received if they had not been placed under suspension after deducting the subsistence allowance paid to them for such period, under the provision of Ind. Employment (standing orders) Act, 1946 and rules framed thereunder, An Ind. Dispute was raised and their dispute was seized in Conciliation on 7-11-1997.

That the Corporation is covered under the Industrial Employment (standing orders) Act, 1946, and the Model standing orders were applicable to the Corporation, till the draft standing orders proposed got certified by the Corporation were in appeal before the appellate Authority—the Chief Labour Commissioner (Central) and were disposed of by him *vide* his orders dated 7-6-1995 and received by the union on or about 26-6-1995 Section 7 of

the Industrial Employment (S.O.) Act, 1946 provides that in cases "where an appeal against the certified standing orders is preferred, the operation of standing orders shall come into opration on the expirry of seven days from the date on which copies of the order of the appellate authority are sent under sub section (2) of Section 6 of the Act."

That the Corporation signed Long Term Settlements with the Union for and on behalf of their workman in the Marketing Division on 5-3-1991 and 20-5-1995, wherein it was agreed by the parties that the terms and conditions of service prevailing prior to signing of this settlement and which are not varied by this settlement shall continue as if specifically provided for in this settlement. The Management is, therefore, also Bound by the terms and conditions of service of the workman prevailing prior to signing of the settlement and not varied by the said settlement and therefore to abide by the Model standing orders applicable to the Corporation at the times of signing of the above settlement.

That during the suspension period, the Management paid subsistence allowance at the rate of 50% of the wages, which they were entitled to immediately preceding the date of 75% of such wages for the remaining period of suspension to all the three workman under Sec. 10-A of the I.E.S.O.'s Act, 1946 to affirm that Model standing orders were applicable to the corporation and not the certified standing orders, which were pending in appeal before the C.L.C. (C) at the time of reinstatement of the workman on duty. Under the Draft Standing Orders of the Management pending in appeal before chief Labour Commissioner (C), the workmen would have been entitled to 100% of the wages after 180 days of suspension, but the Management did not make 100% payment after 180 days on the plea that till their appeal is not disposed of by the Chief Labour Commissioner (C), only Model Standing Orders are applicable to them. But now they are not treating the workman on duty and are refusing to make payment of the full wages of the workman under clause 14(4)(c) of the Model standing orders under the I.E. (S.O.'s) Act, 1946 and rules framed thereunder.

without prejudice to the contention that the punishments awarded to Shri Nandan Singh (Demotion from Refuelling Operator Grade M-70 to Crewman Grade M-05) and to Shri Jaskaran Singh and Sh. A.K. Pathania (Stopage of one increment without cumulative effect) were unreasonable and unjustified, workman were entitled to have been on duty during the period of suspension and were entitled to be same wages as they would have received if they had not been placed under suspension after deducting the subsistance allowance paid to them for such period after reinstatement and after awarding them punishment as above, after domestic enquiries under the I.E.S.O.'s Act.

That under the provisions of clause 14(4) (c) of the Industrial Employment (Standing Orders) Act, 1946, and rules framed thereunder, it is provided as under:—

"Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this clause, the workman shall be deemed to have been on duty during the period would have received if he not placed under suspension, after deducting the subsistence allowance paid to him for such period."

As explained in para 7 above, the appeal against the draft standing orders of the Management was disposed of by the C.L.C. (C) *vide* his letter No. I.E. 5/6/90-LS. I dated 7th June, 1995 the certified Standing Orders could only be made applicable after seven days as the above order under sec. 7 of the I.E.S.O's Act, 1946 though the workman were reinstatement in the year 1994 much before the above order of CLC(C).

The above order of the Chief Labour Commissioner (C) was also received by the Management, they were fully aware that the exiting Model Standing Orders were applicable to the Hindustan Petroleum Corporation at least till 14-6-1995. The action the Management therefore not treating the workman on duty for the suspension period and withholding their wages for the said period in violation of the Model standing orders applicable to them was unreasonable and unjustified, perticularly when Shri H.L. Zutshi—Director Marketing modified the orders of Disiplinary Authority dated 27th July, 1994 in appeal, and imposed a penalty of Stoppage of one increment without cummulative effect on Shri Jaskaran Singh and Shri AK. Pathania did not order for withholding the payment of wages of workman for suspension period.

The managment has filed Written Statement. In the Written Statement it has been stated that the terms of reference in the present case has been made by Shri Ajay Kumar, Desk Officer, who has no legal and valid authority to make the terms of reference. The terms of reference and the resultant proceedings are without jurisdiction.

That the terms of reference has been made mechanically and without application of mind. Reference is also bad in law on that accout.

It is stated that all the three claimants namely Shri Nandan Singh, claimant No. 1, Shri Jaskaran Singh, claimant No. 2 and Shri A.K. Pathania, claimant No. 3 were in the services of the replying management. It is relevant to state that all the three claimants were suspended due to pending charges in past, details about the same are given hereinafter.

The alleged union namely Petroleum Workers Union has no locus standi to represent employees of the replying management. The alleged union is creation of few individuals with ulterior motive of placing hurdles and causing disturbance in the affairs of the management. The Shri K. L Chhabra who in the statement of claim is alleging himself to be the Secretary of alleged union which is denied Shri K. L. Chhabra is a retired employee. He incites the other employees of the management for his ulterior motives. He is trying to invoice the management in various frivolous litigations.

It is stated that the dates and suspension of the claimants is a matter of record and the management shall reply on the official record to show the true and correct position. The terms of reference dated 11-2-98 has been made by the Desk Officer is wholly without jurisdiction. The Desk Officer has no legal and valid authority in his favour for making the terms of reference. Further, the terms of reference as made is not an industrial dispute but industrial disputes of the three claimants. The terms of reference has been made mechanically and without application of mind. It is relevant to state that the management applied for certification of approved standing orders by the competent authority which was filed on or about October, 1988. *Vide* order dated 31-1-1990 the certifying authority approved the stanidng orders and in the proceedings before the certifying authority, there were various unions/associations which representing almost all the employees to be covered by the certified standing orders. The union was fully satisfy with all the certified stnading orders. However, the alleged union namely Petroleum Workers Union, which is a creation of few persons and the paper union filed an appeal dated 19-6-1990. The appellate authority *vide* its detailed order dated 7-6-1995 upheld the order of the certifying authority dated 31-1-1990. It is also relevant to state that the appellate authority never passed any order of stay or put any embargo on the orders of the certifying authority. Rest of the contents of the Para are argumentative in nature. In this regard, it may also be stated that the alleged union namely Petroleum Workers Union has filed a writ Petiton being No. 3638/95 before the Hon'ble Court of Delhi against the order dated 7-6-1995 of the appellate authority, which is pending disposal. The petitioner union has asked for the stay of the order of the appellate authority which was not granted. Moreover, the petitioner union never appealed against payment of subsistence allowance as per the HPCL's Certified Standing Orders.

That the interpretation of the claimants of the settlement dated 5-3-1991 and dated 20-5-1991 is misconceived and untenable. The management would refer to the judgments themselves to show the true and correct position. Rest of the contents of the para are argumentative in nature. The subsistence allowance paid to the claimant was proper and justified. None of the claimants out of the three claimants is entitled to more amounts than what has been paid to them during the suspension. In this regard it is also relevant to refer to the final punishment order as was made by the disciplinary authority, appellate authority in the cases of each of the claimants. The allegations made in the paras are argumentative and shall be dealt with in detail at the time of oral submission.

That the allegation as made by the claimants is argumentative. The claimants are not entitled to more amount than what they have been paid during suspension. It is denied that he punishment imposed on either of the three claimants is unjust or improper. The allegations and the claim as made are beyond the terms of reference, assuming the reference to be valid. It is submitted, it is well settled that the claimants cannnot go and claim relief beyond the reference, assuming the reference to be valid. Clause 14 (4) (c) as reproduced in para 11 are not applicable in the present case. The claim is wholly without jurisdiction and also misconceived and ill-conceived in law.

That the claimants/union cannot be permitted to take contradictory stand at different places. The provisions of the Model Standing Orders and specially provisions of the Model Standing Orders are specially of clause 14 (4) (c) are not applicable on either of the three claimants. The management will reply on the orders of the certifying authority/appellate authority to show true and correct legal position, *vis-a-vis* Industrial Employment (Standing Orders) Act, 1946. It is denied that there is any illegality or unfair action or violation of any provisions of law, orders as vaguely alleged. The provisions of Model Standing Orders are not applicable on the claimants. The claims made herein are wholly without jurisdiction and untenable.

The provisions of clause/section 14 (4) (c) are not applicable in the present case. The whole claim of the claimant is liable to be dismissed with costs.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the Written Statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides on the point of quantum of punishment. It was submitted from the side of the workman that the inquiry was not fair and proper. The fairness of the inquiry has been decided as preliminary issue on 10-4-2006. Inquiry was found fair and accordingly the issue regarding fairness of the inquiry was decided. This issue cannot be re-agitated again.

The order dated 10-4-2006 will be the part of this award on the issue of fairness of the inquiry. It has been alleged in the chargesheet that:—

1. That the claimant Shri Nandan Singh was posted at IGI Airport as a Refuelling Operator wherein he committed gross-misconduct for which he was chargesheeted *vide* chargesheet-cum-suspension letter dated 9-4-1990. The charges are reproduced as under:—

(i) "Flighting, riotous and disorderly behaviour at the place of work in the establishment ;

(ii) Threatening, abusing or assaulting any co-worker;

(iii) Commission of any act subversive of discipline ; and

(iv) Unauthorised absence from duty."

That the management appointed Inquiry Officer to inquire the charges leveled on the claimed. After inquiry report the management imposed the lesser punishment of reduction in scale from M-07 to M-05.

2. It is submitted that the claimant was posted at the IGI Airport i.e. very sensitive area and the claimant abusing and assaulting co-worker and misbehaving at the work place is very serious misconduct. In such cases dismissal of service is appropriate as held by the Hon'ble Court of Delhi and Hon'ble Supreme Court of India in a catena of judgments. Even though the Disciplinary Authority only imposed the punishment of reducion in scale from M-07 to M-05 i.e. very reasonable and proper punishment, imposed upon the claimant.

3. That the management relies on the judgments of Hon'ble Supreme Court in the case of Janatha Bazar (South Kanara Central Co-operative Whole Sale Stores Limited) *Vs.* The Secretary, Shahkari Naukarara Sangha, 2000 LLR 1271 SC "Section 11 A-Powers of Labour Court or Industrial Tribunal to give appropriate relief in case of dismissal or discharge of workmen—Disciplinary action—quantum of punishment—Discretion of Labour Court—Labour Court giving specific finding that charge of mis-appropriation and breach of trust established—It, however, setting aside dismissal order and ordering reinstatement with 25% back wages while imposing penalty of stoppage of 5 increments with cumulative effect—Unsustainable—Once act of misappropriation is proved, may before a small or large amount, there is no question of showing uncalled fro sympathy and reinstating employee in service—Labour Court cannot substitute penalty imposed by employer in such cases."

In the instant case there is reduction in scale only. Such reduction in scale is justified in view of major misconduct of the deceased workman. The workman is deceased and his L/R is contesting the case. The punishment of reduction of scale is not harsh. It is not shocking. It is not dis-proporationate. The misconduct alleged is not shocking to the conscience of the Court. It has been held in a catena of cases by the Hon'ble Supreme Court that the Tribunal will exercise the power conferred under Setion 11 A of the ID Act, 1947, in case where punishment is dis-proportionate and harsh. In the facts and circumstances of the case reduction in scale is neither harsh nor dis-proportionate. No interference is required.

The reference is replied thus:—

In the circumstances of case reduction in scale from M-07 to M-05 of Shri Nandan Singh, Refuelling Operator is justified. The claimant of the deceased workman is not entitled to get any relief as prayed for.

Award is given accordingly.

Date: 4-9-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 22 सितम्बर, 2006

का.आ 4123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 154/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-20012/125/99-आईआर(सी-I)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 22nd September, 2006

S.O. 4123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 154/99) of the Central Government Industrial Tribunal/Labour Court Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 21-9-2006.

[No. L-20012/125/99-IR (C-I)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (No. 1), DHANBAD

In the matter of a reference under Section 10 (1) (d) & (2A) of Industrial Disputes Act, 1947

REFERENCE No. 154 of 99

Parties : Employers in relation to the management of Western Jharia Area of M/s. BCCL.

AND

Their Workman

Present : Shri Sarju Prasad,
Presiding Officer.

Appearances:
For the Employers : Shri U. N. Lal, Adv.
For the Workman : None.
State : Jharkhand Industry : Coal

Dated, 30-8-2006

AWARD

By order No. L.20012/125/99/IR (C-I), dated. 16-7-99 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of Section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

"क्या बी.सी.सी.एल, पश्चिम झरिया क्षेत्र के प्रबंधतंत्र द्वारा श्री अब्दुल रजक को कैट VI ड्राइवर के पद पर वर्ष 1990 से नियमित न किया जाना तथा उक्त पद का वेतन न दिया जाना सी. बी. आई. टी. (1) धनबाद के वि. सं. 114/1988 में दिये गये पंचाट का उल्लंघन है? यदि हां, तो कर्मकार किस राहत के पात्र है तथा किस तारीख से?"

2. This reference has been received on 3-8-99 and till date the sponsoring union/concerned workman has not filled any written statement/statement of claim. Notice were issued to the sponsoring union by speed post on 24-7-2006 but in spite of that no one appeared on behalf of the sponsoring union/concerned workman. Therefore, it appears that there is no industrial dispute existing now.

Therefore, I submit a NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4124.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 230/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-22012/207/2002-आई आर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4124.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 230/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfield Limited, and their workmen, received by the Central Government on 26-9-2006.

[No. L-22012/207/2002-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer.

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. 230/2003 **Date 13-09-2006**

The General Manager, Western Coalfield Ltd. of Pench Area, PO. Parasia, Distt. Chhindwara.

Versus

The Secretary, BKKMS (BMS) Union, PO. Parasia Distt. Chhindwara.

AWARD

The Central Government after satisfying the existence of disputes between The Secretary, BKKMS (BMS), Party No. 2 and The General Manager, Pench Area of WCL, Party No. 1, referred the same for adjudication to this Tribunal *vide* its letter No. L-22012/207/2002-IR(C-II) dt. 30-09-2003 under clause D of sub section 1 and sub-section (2A) of Section 10 of ID Act with the following schedule.

"Whether the demand of the Bhartiya Koyala Khadan Mazdoor Sangh from the management of Western Coalfield Limited, Pench Area to promote Shri Heera Lal as Clerk Grade II from the date his junior Shri Sadiq Hussain was promoted is just and fair? If so, to what relief is the workman entitled?"

The above dispute came for hearing before the Tribunal on 13-09-2006. The perusal of record shows that, no body has turned to the Tribunal in response to the notice issued by it as well as on the basis of receipt of the order of the Ministry. The order must have been sent directly to the authorized representative that too by a Registered Post. It was expected to appear but no body either union or individual Heera Lal has appeared right from 13-05-2005 *i.e.* from the date sending notices to the petitioner till today. On 11-07-2006 the counsel for the management Shri B. N. Prasad filed authorization and on today also he was present. It is pending for filing of the Statement of Claim. This indicates that the party particularly the petitioner is not interested in prosecuting it. I do not think it proper to continue the case even without filing of the Statement of Claim by the petitioner or by the union. Hence this is dismissed for default of the petitioner.

A. N. YADAV, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4125.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 229/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-22012/203/2002-आई आर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4125.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 229/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Nandan Mines No.1 of Western Coalfield Limited, and their workmen, received by the Central Government on 26-9-2006.

[No. L-22012/203/2002-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR.

Case No. 229/2003 **Date 13-09-2006**

The Mines Manager, Nandan Mines No. 1 of WCL, PO. Nandan, Distt. Chhindwara.

Versus

The President, Pench Kanhan Koyla Khadan Karamchari Sangh, PO. Danua, Distt. Chhindwara.

AWARD

The Central Government after satisfying the existence of disputes between The President, Pench Kanhan Koyla Khadan Karamchari Sangh, Party No. 2 and Mines Manager, Nandan Mines No. 1 of WCL, Party No. 1 referred the same for adjudication to this Tribunal *vide* its letter No. L-22012/203/2002-IR(C-II) dt. 30-09-2003 under clause D of sub-section 1 and sub-section (2A) of Section 10 of ID Act with the following schedule.

> "Whether the action of the management of Nandan Mines No. 1 of WCL in increasing the work load of Shri Ram Sufal and 18 other drillers by re-organisation in supporting the roof and side introduced w.e.f. 25-9-2000 is justified? If not, to what relief are the workmen entitled?"

The above dispute came for hearing before the Tribunal on 13-09-2006. The perusal of record shows that, no body has turned to the Tribunal in response to the notice issued by it as well as on the basis of receipt of the order of the Ministry. The order must have been sent directly to the authorized representative that too by a Registered Post. It was expected to appear but no body either union or individual Ram Sufal has appeared right from 13-05-2005 *i.e.* from the date of sending notices to the petitioner till today. It is pending for filing of the Statement of Claim. This indicates that the party particularly the petitioner is not interested in prosecuting it. I do not think it proper to continue the case even without filing of the Statement of Claim by the petitioner or by the union. Hence this is dismissed for default of the petitioner.

A. N. YADAV, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4126.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 228/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-22012/307/2002-आई आर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4126.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 228/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between management of Regional Workshop Western Coalfield Limited, and their workman, received by the Central Government on 26-9-2006.

[No. L-22012/307/2002-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR.

Case No. 228/2003 Date 13-09-2006

The Deputy C. M. E., Regional Workshop, Western Coalfield Ltd., Chandametta, Distt. Chhindwara.

Versus

The Secretary, RKKMS (INTUC) Union, PO. Chandametta, Distt. Chhindwara.

AWARD

The Central Government after satisfying the existence of disputes between The Secretary, RKKMS (INTUC), Party No. 2 and The Deputy C.M.E., Chandametta Area of WCL, Party No. 1 referred the same for adjudication to this Tribunal *vide* its letter No. L-22012/307/2002-IR (C-II) dt. 16-10-2003 under clause D of sub-section 1 and sub-section (2A) of Section 10 of ID Act with the following schedule.

> "Whether the action of Dy. C.M.E. Regional Workshop Chandametta, WCL Pench Area PO. Parasia Distt. Chhindwara (MP) in not correcting the date of birth of Shri Madan S/o Pooranlal Automechanical Fitter as per school certifcates is legal and justified? If not, to what relief the workman is entitled?"

The above dispute came for hearing before the Tribunal on 13-09-2006. The perusal of record shows that, no body has turned to the Tribunal in response to the notice issued by it as well as on the basis of receipt of the order of the Ministry. The order must have been sent directly to the authorized representative that too by a Registered Post. It was expected to appear but no body either union or individual Madan Pooranlal has appeared right from 13-05-2005 *i.e.* from the date sending notices to the petitioner till today. On 11-07-2006 the counsel for the management Shri B. N. Prasad filed authorization and on today also he was present. It is pending for filing of the Statement of Claim. This indicates that the party particularly the petitioner is not interested in prosecuting it. I do not think it proper to continue the case even without filing of the Statement of Claim by the petitioner or by the union. Hence this is dismissed for default of the petitioner.

A. N. YADAV, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4127.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 142/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-22012/70/2002-आई आर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4127.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 142/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Ambara Sub Area of WCL, Kanhan Area, and their workman, received by the Central Government on 26-9-2006.

[No. L-22012/70/2002-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR.

Case No. 142/2003 **Date 13-9-2006**

The Sub Area Manager, Ambara Sub Area of WCL Kanhan Area, Po. Palachaurai, Distt. Chhindwara.

Versus

The Secretary, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Po. Chandametta, Distt. Chhindwara.

AWARD

The Central Government after satisfying the existence of disputes between the Secretary, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Party No. 2 and the Sub Area Manager, Ambara Sub Area of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/70/2002-IR(C-II) dt. 13-5-2002 under clause D of sub section 1 and sub section (2A) of Section 10 of ID Act with the following schedule.

> "Whether the action of the management of Ambara, Sub Area of WCL, Kandan Area, PO. Ambara, Distt. Chhindwara(MP) in not giving wage protection to Shri Baliram S/o Shri Govinda from 1-6-99 is justified? If not, to what relief is the workman entitled?"

The above dispute came for hearing before the Tribunal on 13-9-2006. The perusal of record shows that, no body has turned to the Tribunal in response to the notice issued by it as well as on the basis of receipt of the order of the Ministry. The order must have been sent directly to the concerned workman that too by a Registered Post. It was expected to appear but no body either advocate or individual Baliram has apeared right from 13-05-2005 i.e. from the date of sending notices to the petitioner till today. It is pending for filing of the Statement of Claim. This indicates that the party particularly the petitioner is not interested in prosecuting it. I do not think it proper to continue the case even without filing of the Statement of Claim by the petitioner or by the union. Hence this is dismissed for default of the petitioner.

A. N. YADAV, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4128.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 103/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-22012/196/2001-आई आर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4128.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2003) of the Central Govemment Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between to the management of Wani Area of Ghugus of Western Coalfields Ltd and their workman, received by the Central Government on 26-9-2006.

[No. L-22012/196/2001-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR.

Case No. 103/2003 **Date : 13-09-2006**

The Additional General Manager, (OP), Wani Area, of Ghugus of WCL, Post. Ghugus, Distt. Chandrapur.

Versus

Shri Ramesh Raghoba Gaikwad, C/o Maya Mukund Dhongle, Advocate, Post, Palasgaon, Teh. Ballarpur, Distt. Chandrapur

AWARD

The Central Government after satisfying the existence of disputes between Shri Ramesh Raghoba Gaikwad, Party No. 2 and The Additional General Manager, Wani Area of Ghugus of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/196/2001-IR(C-II) dt. 11-02-2003 under clause D of sub section 1 and sub section (2A) of Section 10 of ID Act with the following schedule.

> "Whether the action of the management in relation to the office of Addl. General Manager (OP), Wani Area Ghugus of Western Coalfields Ltd., in terminating the services of Shri Ramesh Raghoba

Gaikwad, Casual worker vide order No. WCL/WA/GM(OP)/Ghugus/PER/1113 dated 08-10-95 is legal and justified ? If not, to what relief the workman is entitled to ?"

The above dispute came for hearing before the Tribunal on 13-09-2006. The perusal of record shows that, no body has turned to the Tribunal in response to the notice issued by it as well as on the basis of receipt of the order of the Ministry. The order must have been sent directly to the authorized representative that too by a Registered Post. It was expected to appear but no body either union or individual Ramesh R. Gaikwad has appeared right from 13-05-2005 i.e. from the date sending notices to the petitioner till today. On 11-05-2006 the counsel for the management Shri B. N. Prasad filed authorization and on today also he was present. It is pending for filing of the Statement of Claim. This indicates that the party particularly the petitioner is not interested in prosecuting it. I do not think it proper to continue the case even without filing of the Statement of Claim by the petitioner or by the union. Hence this is dismissed for default of the petitioner.

A. N. YADAV, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4129.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 165/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-42012/220/2003-आई. आर.(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4129.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 165/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Central Public Works Department, and their workman, received by the Central Government on 26-09-2006.

[No. L-42012/220/2003-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

PRESIDING OFFICER: R.N. RAI.

I.D. NO. 165/2004

IN THE MATTER OF:
All India CPWD (MRM) Karamchari Sangathan,
4823, Balbir Nagar Extension, Gali No. 13,
Shahadara Delhi,
Delhi-110032

Versus

The Executive Engineer, ACD-2,
CPWD,
Vidyut Bhawan, Shankar Market,
New Delhi

AWARD

The Ministry of Labour by its letter No.L-42012/220/2003-IR (C-II) Central Government Dated 3-11-2004 has referred the following point for adjudication.

The point runs as hereunder:—

"Whether the demand of All India CPWD (MRM) Karamchari Sangathan for reinstatement and regularization of Shri Tejbhan Singh, Khalasi is legal and justified ? If yes, to what relief the workmen is entitled and from which date."

It transpires from perusal of the order sheet that reference was received in November, 2004. Notice has been served on the claimant/workman but no claim has been filed.

No dispute award is given.

Date : 22-09-2006

R. N. RAI, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4130.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 98/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-42012/57/2003-आई. आर.(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4130.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Central Public Works Department, and their workmen, received by the Central Government on 26-09-2006.

[No. L-42012/57/2003-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NEW DELHI

Presiding Officer : R.N. RAI.

I.D. No. 98/2004

In the Matter of :—

The Deputy General Secretary,
All India CPWD Employees Union,
Lodhi Colony, Enquiry Office,
CPWD, New Delhi-110 003.

Versus

The Director General of Works, CPWD,
Nirman Bhawan, New Delhi,
New Delhi-110011.

AWARD

The Ministry of Labour by its letter No. L-42012/57/2003-IR (C-II) Central Governrnent dated 27-5-2004 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the workman Shri Hari Paswan is entitled for re-instatement/absorption and regularization consequent upon abolition of contract labour system ? If yes, to what relief the workman concerned is entitled to and from which date?"

It transpires from perusal of the order sheet that notice was sent for filing claim statement on 24-8-2004. The workman has appeared but still no claim has been filed.

No dispute award is given.

Date : 22-9-2006

R. N. RAI, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4131.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू. डी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-2, नई दिल्ली के पंचाट (संदर्भ संख्या 100/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/108/2003-आईआर(सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4131.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 100/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Central Public Works Department and their workmen, which was received by the Central Government on 26-9-2006.

[No. L-42012/108/2003-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

Presiding officer : R.N. RAI.

I.D. No. 100/2004

In the Matter of :—

The Deputy General Secretary,
All India CPWD Employees Union,
Lodhi Colony, Enquiry Office,
CPWD, New Delhi-110003.

Versus

The Director General of Works, CPWD,
Nirman Bhawan, New Delhi,
New Delhi-110011.

AWARD

The Ministry of Labour by its letter No. L-42012/108/2003-IR (C-II) Central Government dated 27-5-2004 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the workman Shri Sunil is entitled for absorption and regularization consequent upon abolition of contract labour system ? If yes, to what relief the workmen concerned is entitled to and from which date?"

It transpires from perusal of the order sheet that notice was sent for filing claim statement on 24-8-2004. but no claim statement has been filed by the workman applicant.

No dispute award is given.

Date : 22-9-2006.

R. N. RAI, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4132.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कारपेट विविंग ट्रेनिंग सेन्टर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 191/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/136/98-आईआर(डीयू)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4132.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a carrigendum to the award (Ref. No. 191/98) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers

in relation to the management of Carpet Weaving Training Centre their workman, which was received by the Central Government on 26-9-2006.

[No. L-42012/136/98-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 191 of 98

Between :

Sh. Charan Singh,
S/o Sri Govind Ram,
Vill-Semri
P.O. Chhatta Distt. Mathura

AND

The Development Commissioner (Handicraft)
Govt. of India Ministry of Textile Carpet Weaving & Training-cum-Service Centre-23, Indira Nagar,
Bareilly.

AWARD

1. Central Government, Ministry of Labour, New Delhi, *vide* notification No. L-42012/136/98/IR (DU) dated 30-11-98 has referred the following dispute for adjudication to this Tribunal :

> "Whether the action of the management of Carpet Weaving Training Centre in terminating the services of Sh. Charan Singh is legal and justified, If not, to what relief the workman is entitled ?"

2. It is unnecessary to give full details of the case as from the schedule of reference order it is quite obvious that there is no mention of date of termination of the services of the workman by the management concern. The Tribunal in the event having found that the action of the management in terminating the service is neither legal nor justified the normal question which arises for consideration is as to from what date the concern workman be held entitled for his reinstatement. As there is no mention of date of termination in respect of the workman in the schedule of reference order, the workman cannot be held entitled for any relief. Consequently it is held that the schedule of reference order is of vague nature cannot be answered by this Tribunal. Reference is answered accordingly against the workman.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4133.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 37/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/62/2005-आईआर(डीयू)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4133.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a corrigendum to award (Ref. No. 37/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-9-2006.

[No. L-40012/62/2005-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, SARVODAYA NAGAR, KANPUR

Industrial Dispute No. 37 of 2005

In the matter of dispute between :—

Sri. Lalta Prasad Gaur,
S/o Sri Mewa Ram Gaur,
Vill-Vedi Post Puwarikalan,
Varanasi.

AND

The General Manager,
Bharat Sanchar Nigam Ltd.,
Telibagh, Varanasi, U.P.

AWARD

1. Central Government, Ministry of Labour, New Delhi, *vide* notification No. L-40012/62/2005/IR(DU) dated 28-10-2005 has referred the following dispute for adjudication to this Tribunal :

> "Whether the action of the management of Bharat Sanchar Nigam Ltd., Varanasi in terminating the services of Sri Lalta Ram Gaur, Mali w.e.f. 13-12-2004 is legal and justified? If not, to what relief the workman is entitled?"

2. It is to be pointed out that in the instant case after receipt of the notice which was sent to the workman through registered post by the Tribunal workman put his appearance in person before the tribunal and *vide* application dated 21-12-2005 requested the Tribunal that some time may be allowed to him which was accepted by the Tribunal. Thereafter neither the workman appeared nor filed his statement of claim despite availing of sufficient time. It therefore appears that the workman is not interested in prosecuting his case before the Tribunal as a result of which the reference is bound to be answered against the workman holding that the workman is not entitled for any relief for want of pleadings and evidence. Reference is answered accordingly.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4134.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, एन.टी.पी.सी. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 81/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-42012/232/98-आई आर (डीयू)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4134.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No 81/99) of the Central Government Industrial Tribunal cum Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of NTPC and their workman, which was received by the Central Government on 26-9-2006.

[No. L-42012/232/98-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 81of 1999

In the matter of dispute between :

Shri Harender Singh C/o Sri P K Saxena
513 Swarup Rani Nehru Hospital Campus
Allahabed.

AND

The General Mauager,
National Thermal Power Corporation Ltd.,
Shakti Nagar, Dtstrict Sonebhadra U.P.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide notification No.L-42012/232/98/IR.(DU) dated 19-4-99 has referred the following dispute for adjudication to this Tribunal :—

> "Whether the action of the management of NTPC in terminatiug tbe service of Sri Harender Singh is legal and justified ? If not, to what relief the workman is entitled ?"

2. When the instant case was taken up for dictating final award, on perusal of record and reference order it was noticed by the tribunal tnat the date of termination of the services of the workman has not been mentioned. The tribunal is oblivious of the fact that in the absence of date of termination of service in the scbedule of reference order, if tribunal opines that the action of the management in terminating the services of the neither legal nor Justified, then a normal question which will arise tor determination as to from which date workman be ordered to be reinstated in the service of the opposite party. Therefore, the schedule of reference order appears to be vague, and not specific aud on the basis of vague reference order the workman cannot be held eutitled for any relief for want of date ot termination in the schedule of reference order.

3. On merit the case of the workman is that he was appointed by the opposite party vide appointment letter dated 17-3-90 at Shakti Bagar, District Mirzapur now Sonebhadra. The applicant is a sportsman. It has been alleged by the applicant that in all big organisations like the opposite party there is a policy of appointing sportsman in their various posts and instructs them to play sports. This policy has been adopted by the Government of India to encourage sports in the country. In accordance with the above policy tbe opposite party appointed various persons including the applicant workman and the applicant was assigned the work of Junior Assistant in administrative department. The applicant continued practicing volleyball while inservice of the opposite party and also took part as a player of volley ball team on behalf of the opposite party in different tournament. It has also been alleged by the workman that only regular and permanent employee of the opposite party can participate in the sports team on behalf of the management and the opposite party issued certificates to the applicant workman in this behalf. The name of the applicant was also entered in the attendance register of the establishment as such the applicant is a workman under Section 2 (s) of the I. D. Act, 1947. He was also issued an identy card by the opposite party. The workman has also alleged that opposite party used to extend the term of appointment and in this way the applicant continued to work upto 9-4-96 and the services of the applicant were abruptly terminated by the opposite party w.e.f. 10-4-96 without complying with the provisions of Section 25-F of the Act in as much as the workman has neither been paid notice, notice pay or retrenchment ccmpensation at the time of his termination of service by the opposite party management. The applicant has completed more than 240 days of continuous service during the period 17-3-90 to 9-4-96. Therefore the termination of the services of the applicant is illegal and void abinitio. It is also alleged that the termination of the services is retrehcment as defined under Section 2 (bb) of the Act. Many juniors were retained in service by the opposite party after the termination of the services of the applicant. On the basis of above allegations it has been prayed that the action of the management be declared unjust and unfair

and the applicant be reinstated in the service of the opposite party with full back wages arnd all consequential benefits.

4. The claim of the applicant has been contested by the opposite party on variety of grounds such as the applicant is not a workman as defined under Section 2 (s) of the Act that there is no relationship of employer and employee between the management of NTPC and, the applicant; that the reference is bad in law; that the opposite party had never appointed the applicant as per recruitment rules at any post; that the services of the applicant were contractual in nature based on contract mutually agreed upon between the parties, for limited period, that the said contract was renewed each and every time after earlier contract came to an end; that non renewal of terms of employment do not constitute retrenchment as such it was not obligatory on the part of the opposite party to have complied the provisions of Section 25F of the Act at the time when the terms of contract expired by efflux of time; that the applicant was, engaged as a sports man which is not a recognised and permanent post under the opposite party; that if the terms of contract has not been renewed by the opposite party no liability can be fastened upon the opposite party for breach of provision of the Act and accordingly the applicant cannot claim any right to be appointed in the services of the opposite party against any regular and permanent post. On the basis of above. pleadings it has been prayed that the reference be answered in favour of the opposite party and against the applicant workman.

5. Rejoinder statement has also been filed by the workman but nothing new has been stated by him therein except reiterating the facts already pleaded by him in his statement of claim.

6. Both parties have filed documents in support of their respective claims and have also lead oral evidence.

7. I have heard arguments at length and have also perused the records carefully.

8. On the basis of pleadings raised by the parties in the instant case it has to be seen if there existed relationship of master and servant between the management of N. T. P. C. and the workman or not and whether termination as alleged is in breach of the relevant provisions of the Industrial Disputes Act, 1947.

9. The case of the workman is that he was appointed by the opposite party whereas on the other hand the case of the opposite party is that the workman applicant has been engaged as sportsman on the basis of mutual agreement entered into between the parties as sportsman on monthly fixed stipened. Insupport of their case the managemeut opposite party have filed different agreements in original which is on record. A bare perusal of the same would indicate that this agreement entered into between the applicant and NTPC Sports Promotion Board a Society registered under the Societies Registration Act, 1860 whereby it has been agreed upon between the parties that second party to the agreement i. e. NTPC Sports Promotion Board will retain the services of the applicant as sports man on monthly stipend of Rs,1500/- and that the first party to the agreement i.e. the applicant take parts in volley ball tournament on behalf of the management of N.T.P.C.

10. The applicant in his evidence on oath before the tribunal has admitted the genuinness of the agreement and has also admitted his signatures over the agreement. If it is so the tribunal is not inclined and ready to believe the case set up by the applicant that he was appointed in the services of the opposite party at any point of time against any regular aud permanent post. Moreover from the agreement it self it stands established that the applicant was never engaged nor appointed by the opposite party at any post instead the services of the applicant were retained by NTPC sports Promotion Board haviug head office at New Delhi as sportsman on monthly stipend which is a seperate and independant body to that of the opposite party.

11. Having once found that the applicant was not appointed by the opposite party at any post after following due selection process and also having concluded that the services of the applicant were retained as sportsman by NTPC sports Promotion Board on monthly stipend of Rs.1500/- which is a Seperate entity than the opposite party it cannot be held that there existed relationship of employer and employee between the contesting parties and that the applicant ever worked as a workman as defined under Section 2(s) of the Act with the opposite party. If it is so it cannot be said that the opposite party had ever terminated the services of the applicant. Under the facts and circumstances of the case as discussed above, the termination as alleged by the workman cannot be construed as retrenchment therefore the applicant cannot be held entitled to the protection of the provisional of Section 25-F of Industrial Disputes Act, 1947.

12. In view of discussions made above, that the action of the opposite party in terminating the services of the applicant cannot be held to be unjust and unfair.

13. In other view of the matter the applicant's claim is that he was engaged by the opposite party on regular basis. Considering the entire evidence on record carefully it has already been established beyond all controversey, that the applicant was eugaged under some agreement entered into in between NTPC Sports Promotion Board and the applicant which was for fixed period of time and after elapse of agreed term of engagement fresh agreement were entered into between the parties of which NTPC Sports Promotion Board has not been made a party to the present dispute. If this contention is believed to be true the so called employment of the applicant tame to end by efflux of

time when the terms of the agreement was over. From the various agreements on record entered into between the applicant and the NTPC Sports Promotion Board it is held that the employment of the applicant comes to an end autometically after expiry of the period of engagement mentioned in the agreement. In this way the case of the applicant is fully covered under the provisions of Section 2(oo) (bb) of I.D. Act.

14. Having considered the entire evidence carefully it is held that there existed no relationship of master and servant between the parties, therefore, the applicant allegedly workman has no case seeking relief against the opposite party. Consequently it is held that the applicant is not entitled for any relief and the action of the management is held to be fair and justified. Reference is therefore answered against the applicant.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4135.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 89, 84 एंड 88/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/210/2000-आई आर (डीयू);
सं. एल-40012/209/2000-आई आर (डीयू);
सं. एल-40012/212/2000-आई आर (डीयू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4135.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a corrigendum to the award (Ref. No. 89, 84 & 88/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-9-2006.

[No. L-40012/210/2000-IR (DU);
No. L-40012/209/2000-IR (DU);
No. L-40012/212/2000-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute Nos. 89/2000, 84/2000, 88/2000 & Sh. Devi Prasad Pandy, S/o Late Sh. R D Pandey Village Chandpur, Post Mahgaun, Varanasi, U.P.

AND

General Manager,
Telecom Department,
Teliabagh, Varanasi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide notification No. L-40012/210/2000/IR (DU) dated 31-7-2000 has referred the following disputes for adjudication to this Tribunal :—

> "Whether the action of the management of Telecom Department in terminating the service of Sh Devi Prasad Pandey w.e.f. 16-7-99 is justified ? If not, to what relief the workman is entitled ?"

vide notification No. L-40012/209/2000-IR (DU) dt. 31-7-2000

> "Whether the action of the management of Telecom Department in terminating the service of Sh. Amar Nath Singh w.e.f. 15-7-99 is justified ? If not, to what relief the workman is entitled ?"

vide notification No. L-40012/212/2000-IR (DU) dt. 7-8-2000

> "Whether the action of the management of Telecom Department in terminating the service of Sh. Durga Prasad Pandey w.e.f. 15-7-99 is justified ? If not, to what relief the workman is entitled ?"

2. As common question of fact and law are involved in I.D. Case Nos. 84, 88 and 89 of 2000, hence the tribunal proposes to dispose of the above industrial dispute cases by means of a common award a copy of which shall be placed on the file of each industrial dispute case.

3. The workman of each industrial dispute case referred above have filed a common statement of claim interalia stating therein, that the workers have been engaged by the opposite parties to guard the sub-station of the opposite parties situate at Ramnagar in District Varanasi as security guard w.e.f. 22-1-95.

Workers further claim is that they worked continuously without any break in service upto 15-7-99 and thus had completed more than 240 days in each calender year between 1995 to 1999. The workers used to work at the sub-station under the supervision and control of General Manager Telecom Department, Varanasi and Sub-Division Engineer Telecom Ram Nagar, Varanasi, and the workers used to get their wages through General Manager Telecom

Varanasi. It has further been alleged by the workers that General Manager Telecom Varanasi used to pay the wages of the workers to M/s Security and Protection Services Gayatri Nagar Colony Taktakpur, Varanasi, through S. N. Singh. It is the further case of the workers that sub-station of the opposite party is a permanent division of the opp. party and the work which was being done by the workers is of permanent nature. It is to be pointed out that the workers have also made M/s Security and Protection Services as opposite party no. 3 in his statement of claim. Further the case of the workers are that after completing the regular service for more than 240 days status of the workers have become regular and permanent under the opposite parties. The workers have further pleaded that at the time of their engagement their actual wages agreed upon was Rs. 1580/- per month whereas they were paid only Rs. 800/- per month and from August, 1997 their wages were increased to Rs. 1673.76 paisa but they were paid only Rs. 1000/- per month. It is further alleged by them that from the month of Oct. 98 wages were increased to Rs. 2000.22 paisa but they were paid only Rs. 1200/- per month by the opposite party and their wages were further increased to Rs. 2197/- per month but actually they were paid only Rs. 1350/- per month. In this way ta total sum of Rs. 40513/- has been illegally with held by the apposite parties as wages of the workers. It is further case of the workers that when the workers made a demand for payment of with held wages, management of opposite party became annayed and thereby their services were abruptly terminated by the opposite party no. 1 w.e.f. 15-7-99 without assigning any reason or without complying with the provisions of Section 25F of I.D. Act, 1947, in as much as at the time of termination workers have not been paid notice natice, pay ar retrenchment compensation by the opposite party workers have also claimed wages at Rs. 1098.50 each as earned leave wages from the opposite party. On the basis of above allegation it has been prayed by the worker that the action of the management in terminating their services w.e.f. 15-7-99 be declair as unjustified and illegal and they be held entitled to be reinstated in the services of the opposite parties with full back wages and continuity of service.

4. Oppasite party management of Telecom Department have filed a common reply against the common claim of the workers interalia alleging therein that after the orders dated 7-5-85 of the Government af India there had been full ban over fresh intakes of labourers in the department and with a view to avoid terrorist attack effectively it has been decided ta provide adequate protecion to the Sub-Divisional Stations of the opposite parties. It is the further case of the apposite party that to achieve the object of protecting the units of the opposite parties tenders from Security Agencies were obtained for deploying persons as security guards at the technical units of the opposite parties and according to condition no. 7 of the tender that only such persons will be deployed for security purposes who had worked as guards in para military forces like B.S.F., C.S.I.F. or C.R.P. It has also been clarified in clause 12 of the tender that there shall be no responsibility of supervision of the department over the persons deployed through Security Agency as security guard to protect the technical units of the opposite parties, and that it shall be full responsibility of the contractor in respect of persons deployed by him as security guard under the opposite party. Opposite party have further averred that there is no provision under the opposite party to engage directly persons as security guard in view of ban imposed by the Govt. of India w.e.f. 7-5-85 over fresh intakes of casual labourer. Opposite parties have denied the fact that they ever appointed the workers rather workers have been engaged as security guard through security agency who was responsible for their activities and for making payment af wages to these workers. Security agency used to deploy the workers as security guards under contract and the contract system is not of permanent nature rather is a temporary measure arrangement. Even workers have not filed any document which may be indicative of the fact that at any point of time they were the employees of the opposite parties. Opposite parties have also denied the relationship of master and servant between the employer and the workers. It has also been pleaded by the opposite party in their reply that even if it is assumed that the workers have completed 240 days of continuous service during their working under the contract they cannot raise any claim against the opposite parties as and thus they are not entitled for the for the benefit af protection of Section 25-F of I.D. Act. On the basis of the above pleadings it has been prayed that the claim of the workers is liable to be rejected being devoid of merit.

5. After exchange of pleadings between the parties it has to be seen whether there existed relationship of master and servant between the opposite party Telecom Department and the workers and as ta whether or not the workers are entitled for the benefit of provisions of section25-F of I.D. Act, 1947, as claimed by them.

6. Workman in para 4 of his statement of claim has clearly admitted the fact that opposite parties used to make payment af wages to M/s. Security & Protection Services i.e. opposite party No. 3. From this clear admission of the fact it has become crystal clear that these workers have never been engaged by the opposite parties i.e. General Manager, Telecom Deptt. Varanasi. Workers have also admitted the fact in their statement of claim that they were paid less wages than the agreed upon but have claverly stated that these wages were paid to them by the General Manager Telecom, Varanasi. Workers in support of their claim have filed certain photocopies of attendance sheet bearing LOGO 'SS'. These photocopies are nat sufficient to infer that they belong to the opposite party. LOGO SS means Security Services as has been clarified by the workmen themselves when they made M/s. Security &

Protection Services as opposite party No. 3 in their claim statement.

7. Opposite party in support of their claim have filed photocopy of Tender Notice dated 3-4-97, photocopy of Agreement dated 11-8-98 entered with M/s. Security and Protection Services. A perusal of these documents which were duly certified by the authorities of the department it is abundantly clear that the management has been able to substantiate their stand as taken by them in their reply that there was an agreement between the opposite parties and M/s. Security and Protection Services, Varanasi, and that the said security services have deployed its workers as security guard at technical unit of opposite party at Ram Nagar as will be evident from the attendance sheet filed by the workers themselves belonging to M/s. Security and Protection Services, Varanasi. It transpires clearly that claimants were contract labour of Security Agency.

8. From the above discussions of facts and evidence the tribunal is of the firm opinion that there never existed relationship of employer and employee between the opposite parties i.e. General Manager, Telecom, Varanasi and the workers. Therefore, it is further held that in their case provisions of Section 25F of Industrial Disputes Act, 1947, cannot be made applicable.

9. Having come to the conclusion that there never existed relationship of employer and employee between the contesting parties, workers cannot be held entitled to be reinstated in the services of the opposite party.

10. In view of above discussions it is held that the action of the management cannot be held to be unjustified as they never terminated the services of the workers who were never in the employment of opposite party, and in their case no relief can be granted by the tribunal. Reference is answered accordinlgy.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4136.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 271/90) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/17/90-आई आर (डीयू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4136.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a corrigendum the award (Ref. No. 271/90) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-9-2006.

[No. L-40012/17/90-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, 117/9, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 271 of 90

BETWEEN:

Shri Vijai Shanker C/o S.N. Tiwari,
R/o 119/75-157, Nasimabad, Kanpur.

AND

M/s. Department of Telecommunication,
C/o D.E.T. Office Kapoorthala, Aliganj,
B-131, Chandra Niwas, Aliganj,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi, *vide* notification No.L-40012/17/90/IR.(DU) dated 22-11-90 has referred the following dispute for adjudication to this Tribunal :—

> "Whether the action of the management of Deptt. of Telecommunication(DET) Lucknow in terminating the services of Sri Vijai Shanker w.e.f. 16-10-88 is justified ? If not, to what relief the concerned workman is entitled to?"

2. It is unnecessary to give further details of the case as from the copy of order and judgement dated 9-11-2000 passed by Central Administrative Tribunal Allahabad Bench in O.A. Case No. 1523 of 93 and filed by the opposite party in the present case it is quite clear that the opposite party Telecommunication Department had ceased to be in existence w.e.f. 1-11-2000. This fact has also been admitted by the management evidence. Therefore, the applicant cannot claim any relief against the department of telecommunication as the reference order against it has become infructuous w.e.f. 1-11-2000. Under these circumstances, no relief can be granted to the applicant against opposite party which in fact is not in existence w.e.f. 1-11-2000.

Reference is answered accordingly.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4137.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 45/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/1/2004-आई आर (डीयू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4137.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes corrigendum to the award (Ref. No. 45/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-9-2006.

[No. L-40012/1/2004-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI SURESH CHANDRA H.J.S. PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 45 of 04

In the matter of dispute between :

Shri Murari Prasad S/o Bali Ram,
Village Chandrapur,
District Varanasi.

AND

The General Manager,
BSNL, Shivpura, Varanasi.

AWARD

1. Central Government, Ministry of Labour, New Delhi, *vide* Notification No.L-40012/1/2004/IR.(DU) dated 15-7-04 has referred the following dispute for adjudication to this Tribunal :—

> "Whether the employee—employer relationship is established between BSNL and Sh. Murari Prasad? If yes whether the action of the BSNL Varanasi in terminating Sri Murari Prasad S/o Bali Ram from the service w.e.f. 15-9-02 is legal and justified ? If not, to what relief he is entitled to ?"

2. From a bare perusal of the terms of reference order it is quite clear that it runs into two part. First part of it relates for consideration of the fact as to whether there existed relationship of master and servant of employee—employer between the workman and the management of BSNL Varanasi, therefore, it has become expedient to first examine this issue and if the issue is answered in affirmative then it will be seen if the termination of the service of the workman by the management of BSNL Varanasi is legal and justified and to what relief the workman is entitled from the management.

3. The case in short as set up by the workman is that he worked as security guard upto 15-9-02 under direct control and supervision of the management from 27-09-01. The services of the workman alongwith two other workers have been terminated by the management *vide* their notice dated 15-9-02 without any information or without showing any valid reasons. It has also been alleged by the workman that he was not paid his full wages by the management of BSNL Varanasi for the period 1-4-02 to 15-9-02. It has been alleged that ignoring the fact that the work against which the workman was employed by the opposite party is continuing, still he was removed from service by the opposite party. Several fresh hands were appointed in place of the workman for performing the same work which was being performed by the workman, and they are still working under the management. Before the ALCC(C) management filed reply where in they completely denied the engagement and working of the workman. On the oral orders of the General Manager of the opposite party the workman was engaged in the service. The workman used to sign the attendance register maintained by the Sub-Divisional Officer Tikri Telephone Exchange Varanasi and the workman was being paid wages at Rs. 1350 per month by the opposite party. He further alleges that he had completed 240 days of continuous service under the management. Without alleging breach of any provisions of the Industrial Disputes Act, 1947 it has been prayed by the workman that the action of the opposite party is illegal and unjustified and he is entitled to be reinstated in the service of the management with full back wages and continuity of service.

3. Opposite party filed a lengthy and detailed written statement in reply to the statement of claim filed by the so called workman alleging therein that security in different telephone exchanges are done by the Security Agencies on the basis of a contract for a limited period of one year. That based on internal decision of BSNL the security guards were taken on contract basis through various private security agencies. Tenders and applications are invited and received from the various private security agencies for providing their agents as security guards,, and the said system continued till August 2002 and as a policy decision it was decided by the management that instead of utilising the services of security guards from private security agencies, home guards will be utilised as

security guards from the State of U.P. It is also alleged that the claimant Murari Lal was the agent of private security services known as M/s. Industrial Security Services of Varanasi. The opposite party entered into an agreement with M/s. Industrial Security Service, Varanasi, and one of the important condition agreed upon is that it shall be the responsibility of the Agency to make payment to the Security guards and it shall be the responsibility of the security agency to deploy or to terminate the services of the security guards. The claimant was deputed by the security agency and he was never appointed or engaged directly by the opposite party nor he ever worked under the opposite party under their direct supervision and control. It has also been alleged that the alleged claimant is not a workman as defined under Sec. 2(s) of the I.D. Act, 1947. It has further been alleged by the opposite party that when the claimant was not appointed or engaged by them question of termination of his service does not arise at all. On the basis of above pleadings it has been prayed by the management of BSNL Varanasi that the reference be decided in their favour and against the opposite party.

4. After exchange of pleadings between the parties the contesting parties adduced oral as well as documentary evidence in the case in support of their respective cases. Whereas claimant Murari Prasad has examined himself as W.W. 1 management examined its officer T.D. Singh SDO Phones Varanasi as M.W. 1.

5. The claimant in his evidence on oath has stated that he was appointed as Security guard at Tikri Telephone Exchange. Beside the work of security guard opposite party also took the work of operating the generator. S.D.O. Phones and Junior Engineer of the Exchange used to supervise the work of the claimant. He has further stated that his services were dispensed with w.e.f. 15-09-2002. He further stated that at the time of termination neither he was paid notice nor retrenchment compensation by the opposite party. In his cross-examination the witness has clearly admitted the fact that he was deployed as security guard through Industrial Security Services Varanasi. Witness expressed his ignorance about the Existence of any agreement between the said security agency and the management. Witness denied the suggestion that he ever worked under the security agency. Witness also admitted the fact that at the time of his appointment he was not issued any appointment letter, nor he ever applied in writing before the opposite party for providing him employment. Witness has further expressed his ignorance about the fact that on expiry of terms of agreement his services stood terminated automatically.

6. Management witness M.W. 1 in his examination in chief has admitted the fact that security work was being taken from private security agencies and for this work there was a agreement with M/s. Industrial Security Agency Varanasi and the management and the said agreement dated 31-07-2001 is on the record of the case. Claimant was never appointed by the opposite party and he was working as security guard in his capacity as agent of private security services. Claimant was paid wages by the said security services and his work was supervised by the said security services. Witness goes on to state that at present the work of security is being taken from the Home Guards appointed by the State of U.P. In his cross-examination witness has expressed his ignorance about the fact that opposite party is having any certificate of registration under the provisions of Contract Labour Act. He also stated that work of security was taken through private security agencies. The authorised representative for the workman has not been able to bring out any material thing from the mouth of the witness of the management.

7. From the above evidence of the parties particularly from the evidence of the claimant where he has categorically in his cross examination has admitted the fact that he was deployed as security guard through security agency it stands established beyond doubt that he was never appointed by the opposite party management. If it is so the claimant can not be held to be the employee of the opposite party management rather it is held that he was working under Industrial Security Agency and was deployed as security guard in his capacity as Agent of the security services.

8. On the basis of appraisal of evidence of the parties it is held that there never existed relationship of employee and employer between the parties. When the relationship of employee and employer does not exist between the parties, question of termination of the services of the claimant was the management of BSNL Varanasi does not arise at all.

9. Therefore, from the above discussion it is held that claimant has failed to establish the relationship of employee and employer between him and the management of BSNL Varanasi. It is further held that his services were never terminated by the opposite party. Accordingly action of the management cannot be held to the unfair or unjust. Consequently claimant is held not entitled to any relief against the management BSNL Varanasi. Reference is therefore decided in negative against the claimant.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4138.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, मुम्बई के पंचाट (संदर्भ संख्या सीजीआईटी-2/109 ऑफ 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/41/2005-आई आर (डीयू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4138.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a corrigendum to the award (Ref. No. CGIT-2/109 of 2005) of the Central Government Industrial Tribunal cum Labour Court, No.-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-9-2006.

[No. L-40012/41/2005-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 MUMBAI

PRESENT:

A. A. LAD, Presiding Officer

Reference No. CGIT-2/109 of 2005

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

BHARAT SANCHAR NIGAM LIMITED

The Chief General Manager,
Bharat Sanchar Nigam Limited,
Western Telecom project, "B" Wing, Admn. Bldg;
Santacruz (West), Mumbai-400 054.

AND

Their Workmen

Anil Sakaria,
Unique Vaibhav, Wing "F", Room No.423,
Bolinj, Virar (West), District Thane.

APPEARANCE:

FOR THE EMPLOYER : Absent.

FOR THE WORKMEN : Mr. A. D. Nimbalkar, Advocate.

Date of reserving Award: 4th August, 2006.

Date of passing of Award: 9th August, 2006.

AWARD

1. The Government of India, Ministry of Labour by its Order No. L-40012/41/2005-IR(DU) dated 26th September, 2005 in exercise of the powers conferred by of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

> "Whether the action of the management of Bharat Sanchar Nigam Ltd., Mumbai in terminating the services of Shri Anil Sakaria is justified ? If not, what relief, Shri Anil Sakaria is entitled to ?"

2. To support the subject matter referred in the reference, 2nd Party filed Statement of Claim at Exhibit 5 stating that, he was appointed as a Part Timer Sweeper on 1st April, 1989 and worked till 31st May, 1991 and then was asked to work in the office of the Divisional Engineer, Telecom when he worked there till 31st January, 1994. According to 2nd Party he worked continuously from 1st April, 1989 to 31st January, 1994 without any break. However, without following due process of law he was terminated on 1st February, 1994. His service period was not considered, no reason was assigned for his termination. So he prayed to reinstate with benefit of continuity of service and backwages.

3. Notice of reference was served on 1st Party vide Exhibit 3. However, 1st Party failed to reply the claim of the 2nd Party. So order was passed to proceed ex-parte. To support the claim 2nd Party filed affidavit at Exhibit 6 stating that, he continuously worked with 1st Party from 1989 till 31st January, 1994 and on 1st February, 1994 without following due process of law, he was terminated. He further states that he is unemployed since then. So he prayed that, he been reinstated with the benefits of continuity of service and backwages.

4. This claim of the 2nd Party is not disputed by 1st Party. It is not challenged. So I accept it and conclude that, termination effected on 2nd Party is not just and proper and his services was not considered which he put in from 1-4-1989 to 31st January, 1994. hence, the order :

ORDER

(a) Reference is allowed ;

(b) Termination effected on 2nd Party without Considering the services put in by 2nd Party, Anil Rawji Sakaria, with 1st Party is not just and proper;

(c) 1st Party is directed to reinstate 2nd Party workman on his post and direct to give benefits of continuity of service with backwages from 1st February, 1994 ;

(d) in the circumstances, no order as to its costs.

Mumbai,

9th august, 2006

A. A. LAD, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4139.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 24/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था ।

[सं. एल-40011/10/2000-आई आर (डी यू)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 26th September, 2006

S.O. 4139.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes a corrigendium to the award (Ref. No. 24/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 26-9-2006.

[No. L-40011/10/2000-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT : Shri N.K.R. Mohapatra,
Presiding Officer,
C.G.I.T. cum-Labour-Court,
Bhubneswar.

INDUSTRIAL DISPUTE CASE No. 24/2000

Date of Passing Award-11th Sept. 2006

BETWEEN:

The Management of the Chief
General Manager (T),
Telecom Department,
Orissa Circle,
Bhubaneswar-751001 .....Ist Party-Management

AND

Their Workman,
Represented through
The President,
Orissa Door Sanchar,
Rastrai Mazdoor Sangh (BMS),
Sector-A, 219,
Mancheswar Industrial Estate,
Rasulgarh Bhubaneswar,
Orissa. .....2nd Party-Union

APPEARANCES:

R.K. Das. : For the Ist Party—Management
Shri K.C. Rout, : For the 2nd Party—Union.
President,
ODSAMS.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-40011/10/2000-IR(DU), dated 11-07-2000 :—

> "Whether the action of the Management of Department of Telecom, Orissa Circle by not regularizing/giving temporary status to the disputants is justified? If not to what relief the disputants are entitled?"

2. The parties are heard orally as they submitted that the case be disposed on the basis of materials already on record.

3. Following the reference made by the Central Government the Union filed the claim statement along with a list of workers for thier regularization. As against that the Management initially took the stand that these workers are totally unknown persons. But in course of the proceeding the Management at one stage filed a petition contending to have already selected 455 workers for their regularization and that the same is waiting for the approval of the higher authorities.

4. It is the settled law that in a dispute for regularization of temporary workers. The Tribunal lacks the jurisdiction to direct the Management to regularize the workers who are working continuously for years together. The Tribunal also lacks the jurisdiction to recommend the names of the workers for their regularization. As the law stands today it can at best ask the Management to formulate a method prescribing modalities for the regularization of the deserving workers on humanitarian ground. From the submission of the Management it is crystal clear that having formulated some methods it is already in the process of selecting the workers by creating necessary posts. Therefore, when the Management has already taken up the matter without waiting for the result of the reference, I find no further direction is necessary from this end any more.

5. It is submitted by both parties that the select list of 455 workers covers 274 of the list given by the Union. Therefore, the Management is asked to complete the process of regularization as per its norms formulated preferable within a period of six months to safeguard the further interest of the workers.

6. According this reference is answared.

Dictated & Corrected by me.

N. K. R. MOHAPATRA, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4140.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं. गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई-I के पंचाट (संदर्भ संख्या 4/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर(विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4140.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 4/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

PRESENT : Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-04 of 2003

(Arising out of Reference No. CGIT-1/27 of 1996)

PARTES:

Mr. Vilas Mahadev Desai	:	Complainant
	V/s.	
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES:

For the Opp. Party	:	Shri. R.N. Shah, Adv.
For the Complainant	:	Shri. V. V. Pai, Adv.
State	:	Maharashtra.

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Vilas Mahadev Desai has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The paryer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **POINT NO. 1**

The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Dispute Act, 1947. For considering "Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this

workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *Vs.* D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not. No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 19976. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **POINT NO. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs "The learned counsel for the Complainant Shri V.V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *Vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

8. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer,

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4141.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-I के पंचाट (संदर्भ संख्या 12/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था ।

[सं. एल-29025/2/2006-आई.आर. (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4141.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No.-I MUMBAI

PRESENT : Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-12 of 2003

(Arising out of No. CGIT-1/27 of 1996)

PARTIES:

Rajaram Gajanan Naik	:	Complainant
V/s.		
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES:

For the Opp. Party	:	Shri. R.N. Shah, Adv.
For the Complainant	:	Shri. V. V. Pai, Adv.
State	:	Maharashtra.

Mumbai, dated this 1st day of September 2006

AWARD

1. The workman Shri. Rajaram Gajanan Naik has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Disputes Act (hereinafter referred to as the Act). The paryer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd. Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company, has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Disputes Act has been violated?

(2) Whether the complainant is now estopped from filing the present complaint?

5. **POINT NO. 1**

The present complaint is being admittedly filed for violation of the provisions of Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947. For considering "Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *Vs.* D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the honourable High Court had held *that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned cousel for the workmen to substantiate his argument that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and

the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him *vide* application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application *vide* order dt. 28-1-2003. The order passed therein runs "*The learned counsel for the Complainant Shri V.V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed*".

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *Vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

9. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

Sd/-

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4142.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-I के पंचाट (संदर्भ संख्या 22/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था ।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4142.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22 of 2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-1 now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-09-2006.

[No. L-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1 MUMBAI

PRESENT : Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-22 of 2003

(Arising out of No. CGIT-1/27 of 1996)

PARITES:

Mr. Pandurang Hari Gaude	:	Complainant
V/s.		
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES:

For the Opp. Party	:	Shri. R.N. Shah, Adv.
For the Complainant	:	Shri. V. V. Pai, Adv.
State	:	Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Pandurang Hari Gaude has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The paryer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of

the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman:

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **POINT NO. 1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided *vide* Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *Vs.* D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned cousel for the workmen to substantiate his argument that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him *vide* application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed

therein runs "The learned counsel for the Complainant Shri V.V. Pai filed an application seeking permission to .withdraw the complaint. The permission granted. Application is allowed".

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *Vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

9. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4143.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 18/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था ।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4143.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18 of 2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, MUMBAI

PRESENT : Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-18 of 2003

(Arising out of No. CGIT-1/27 of 1996)

PARITES:

Mr. Ratnakar Shankar Chawdikar	:	Complainant
V/s.		
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES

For the Opp. Party	:	Shri. R.N. Shah, Adv.
For the Complainant	:	Shri. V. V. Pai, Adv.
State	:	Maharashtra.

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Ratnakar Shankar Chawdikar has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Disputes Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule & Co. Ltd., Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **POINT No. 1.** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947. For considering "Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao Harbour in straight away discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *Vs.* D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not. No case law has been submitted by the learned cousel for the workmen to substaintiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs "The learned counsel for the Complainant Shri V.V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *Vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also he mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

9. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

Sd/-

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4144.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 17/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4144.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 17/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT :

Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-17/2003 (Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Mr. Ramkant P. Naik : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES

For the Opp. Party : Shri R.N. Shah, Adv.

For the Complainant : Shri V.Y. Pai, Adv.

State : Maharashtra

Mumbai dated this 1st day of September, 2006

AWARD

1. The workman Shri Ramakant P. Naik has moved the instant application dt. 22/5/2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd., Chowgule House, Mormugao Harbour, Goa hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt.06-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri.V.V.Pai, for the Complainant moved an application dt.17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated ?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **POINT NO.1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No.27 of 1996. Admittedly, the CGIT No.27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt.29-3-2004. This reference was made by the Central Government under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from service of Mr.S.S.Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 11-2-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr.S.S.Naik who was working as Electrician with Code No.1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the

workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs.D.T.M.S.T.S.Koraput and another 1976 LAB I.C.1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1) (a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No.27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance; The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt.18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt.28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint permission granted. Application is allowed".*

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.1 of Civil P.C.

9. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DAS S, Presiding Officer

नई दिल्ली, 26 सितम्बर 2006

का.आ. 4145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 6/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4145.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 6/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT :

Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-1/27 of 2003 (Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Mr. Digamber Shankar Asolkar : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES

For the Opp. Party : Shri R.N. Shah, Adv.

For the Complainant : Shri V.V. Pai, Adv.

State : Maharashtra

Mumbai dated this 1st day of September, 2006

AWARD

1. The workman Shri Digamber Shankar Asolkar Pereira has moved the instant application dt. 22/5/2003 under Section 33-A of the Industrial Disputes Act (hereinafter referred to as the Act). the pryaer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company) has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt.06/8/2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri.V.V.Pai, for the Complainant moved an application dt.17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Disputes Act has been violated ?

(2) Whether the Complainant is now estopped from filing the present complaint ?

5. **POINT NO. 1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No.27 of 1996. Admittedly, the CGIT No.27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt.29-3-2004. This reference was made by the Central Government under clause (d) of sub section 1 of Section 10 of the Industrial Dispute Act 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-harbour in straight-away discharging from services of Mr.S.S.Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f 11-2-1995 is just, valid and legal? If not then, what benefits the workman is entitled to ?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr.S.S.Naik who was working as Electrician with Code No.1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Naik. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S.Koraput and another 1976 LAB I.C.1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(2) (a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No.27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating

to general importance; The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt.18/11/2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt.28/1/2003. The order passed therein runs *"The learned counsel for the Complainant Shri. V. V.Pai filed an application seeking permission to withdraw the complaint the permission granted. Application is allowed"*.

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT -49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.1 of Civil P.C.

9. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 7/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4046.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 7/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-7/2003
(Arising out of Ref. CGIT-1/27 of 1996)

PARTIES:

Mr. Anant Gopi Gaude : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES:

For the Opp. Party : Shri R.N. Shah, Adv.

For the Complainant : Shri V.V. Pai, Adv.

State : Maharashtra

Mumbai dated this 1st day of September, 2006

AWARD

1. The workman Shri Anant Gopi Gaude has moved the instant application dt. 22/5/2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company) has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt.06/8/2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri.V.V.Pai, for the

Complainant moved an application dt.17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Disputes Act has been violated ?

(2) Whether the Complainant is now estopped from filing the present complaint ?

5. **POINT NO. 1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided *vide* Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-harbour in straight-away discharging from services of Mr.S.S.Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f 11-2-1995 is just, valid and legal? If not then, what benefits the workman is entitled to ?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S.Naik who was working as Electrician with Code No.1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject-matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1) (a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No.27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him *vide* application dt.18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application *vide* order dt. 28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint permission granted. Application is allowed".*

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved

on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.1 of Civil P.C.

9. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4147.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 8/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4147.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 8/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

Applicaiton/Complaint No. CGIT-8/2003 (Arising out of Ref. CGIT-1/27 of 1996)

PARTIES:

Mr. Ram Dass H. Naik : Complainant

Vs.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES

For the Opp. Party : Shri R.N. Shah, Adv.

For the Complainant : Shri V.V. Pai, Adv.

State : Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Ramdas H. Naik has moved the instant applicant dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company) has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt.06-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri.V. V. Pai, for the Complainant moved an application dt.17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Disputes Act has been violated ?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **POINT NO. 1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided *vide* Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section 1 of Section 10 of the Industrial Dispute Act 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Marmuga-Harbour in straight away discharging from services of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to ?*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S. S. Naik who was working as Electrician with Code No.1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject-matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra Vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C.1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(l) (a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No.27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance; The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt.18/11/2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt.28/1/2003. The order passed therein runs *"The learned counsel for the Complainant shri. V. V.Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".*

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner Vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.l of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT -49 of 1995 regarding the dismissal as of two difterent workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.l of Civil P.C.

9. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4148.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-I के पंचाट (संदर्भ संख्या 9/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4148.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, MUMBAI

JUSTICE GHANSHYAM DASS, Presiding Officer

Application/Complaint No. CGIT-1-9-2003 (Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Sainath Raghunath Mainkar : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri V. V. Pai, Adv.

State : Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Sainath Raghumath Mainkar has moved the instant application dt. 22/5/2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act), the prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgula House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri.V.V.Pai, for the Complainant moved an application dt.17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated ?

(2) Whether the Complainant is now estopped from filing the present complaint ?

5. **POINT NO. 1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. NO.27 of 1996. Admittedly, the CGIT No.27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt.29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section (1) of Section 10 of the Industrial Dispute Act 1947. For considering "Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 20-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to ?"

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr.S.S.Naik who was working as Electrician with Code No.1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immatcrial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra Vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C.1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it*

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated ?

(2) Whether the Complainant is now estopped from filing the present complaint ?

5. **Point No. 1 :** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided *vide* Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section 1 of Section 10 of the Industrial Dispute Act, 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the persual of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S. S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workman and the Company, since the reference was only having the subject matter of the dismissal of a specifice employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *vs.* D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **Point No. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presinding Officer allowed that application *vide* order dt. 28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed"*.

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing

or not. No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No.27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **POINT NO. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him *vide* application dt.18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application *vide* order dt. 28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri V. V. Pai filed an application seeking permission to withdraw the complaint permission granted. Application is allowed".*

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT -49 of 1995 regarding the dismissal as of two difterent workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.1 of Civil P. C.

9. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4149.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-1 के पंचाट (संदर्भ संख्या 11/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर(विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4149.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 11/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, MUMBAI

PRESENT : Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-11 of 2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES :

Mr. Dileep Datta Shetkar	:	Complainant
V/s.		
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES :

For the Opp. Party	:	Shri R. N. Shah, Adv.
For the Complainant	:	Shri V. V. Pai, Adv.
State	:	Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

The workman Shri Dileep Datta Shetkar has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd., Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.1. of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mount of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.I. of Civil P.C.

9. In view of the finding on point No. 1 the result is that the present complaint is not mainiainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4150.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 13/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर(विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4150.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, MUMBAI

PRESENT : Justice Ghashyam Dass, Presiding Officer

Application/Complaint No. CGIT-13 of 2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Lingappa Mahadev Kurup Gauda : .....Complainant

V/s.

Chowgule and Co. Ltd. : .....Opp. Party

APPEARANCES :

For the Opp. Party	:	Shri R. N. Shah, Adv.
For the Complainant	:	Shri V. V. Pai, Adv.
State	:	Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

The workman Shri Lingappa Mahadev Kurup Gauda has moved the instant application dtd. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with baack wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd., Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dtd. 6-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dtd. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such as application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Disputes Act has been violated ?

(2) Whether the Complainant is now stopped from filing the present complaint ?

5. **Point No. 1 :** The present complaint is being admittedly file for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of

1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dtd. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from servies of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S. S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of immagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specifice employee Mr. Naik. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **Point No. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dtd. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dtd. 28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed"*.

8. The learned counsel for the Company submitted that there was no specific order for granting liherty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.I. of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.I. of Civil P.C.

9. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4151.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक

अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 10/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-6-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर(विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4151 .— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-9-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-10 of 2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Mr. Atchut Gajanan Naik	:	—Complainant
V/s.		
Chowgule and Co. Ltd.	:	—Opp. Party

APPEARANCES:

For the Opp. Party	:	Shri R. N. Shah, Adv.
For the Complainant	:	Shri V. V. Pai, Adv.
State	:	Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

The workman Shri Atchut Gajanan Naik has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd., Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated ?

(2) Whether the Complainant is now stopped from filing the present complaint ?

5. **Point No. I** : The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Dispute Act, 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S. S. Naik, Ex-electrician Cade No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the persual of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S. S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of immagination that the dispute was in between all the workman and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job

which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **Point No. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presinding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs "*The learned counsel for the Complainant Shri V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed*".

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.I. of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mount of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXII R.I. of Civil P.C.

8. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4152.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 14/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4152.— In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 14/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-09-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

PRESENT :

Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT.14 of 2003

(Arising out of Ref. No. CGIT.I/27 of 1996)

PARTIES

Santosh Bombi Gaude	:	Complainant
	V/s.	
Chowgule and Co. Ltd.	:	Opp. Party

Appearances

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri V. V. Pai, Adv.

State : Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Santosh Bombi Gaude has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT. 27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 06-8-003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up.of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **Point No.1:** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33.A of the Act. The reference was decided *vide* A ward dt. 29.3.2004. This reference was made by the Central Government under clause (d) of sub section 1 of Section 10 of the Industrial Dispute Act 1947. For considering *"Whether the action of the Managing director, Chowgule and Company Ltd., Chowgule House, Mormugao. Harbour in straight-away discharging from services of Mr. S.S. Naik, Ex. electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then. What benefits the workman is entitled to?*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *Vs.*. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute shall the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court call reach the conclusion whether the workman is "concerned" with it or not. No case law has been submitted by the leamed counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No.27 of 1996 The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **Point No. 2 :** The plea of the Company that the complainant is estopped from tiling the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33.A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri. V V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed."*

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *Vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XX III R.1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT.27 of 1996. Hence, I conclude that the present application is not barred by Order XX III R.1 of Civil P.C.

8. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ 4153.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-1 के पंचाट (संदर्भ संख्या 15/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई.आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4153.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2003) of the Central Government Industrial Tribunal/Labour Court Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-09-2006.

[No. L-29025/2/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, MUMBAI

PRESENT:

JUSTICE GHANSHYAM DASS, Presiding Officer

Application/Complaint No. CGIT-15 of 2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES:

Mangaldas Narayan Sawant : ..... Complainant

V/s.

Chowgule and Co. Ltd. : ..... Opp. Party

APPEARANCES:

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri V. V. Pai, Adv.

State : Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

The workman Shri Mangaldas Narayan Sawant has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd., Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 06-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. Point No. 1: The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided *vide* Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section I of Section 10 of the Industrial Dispute Act 1947. For considering *"Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging, from services of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No.1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *vs.* D.T.M.S.T.S. Koraput all another 1976 LAB I.C. 1260 and the Honourable High Court had held that *of the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute (another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and sick approval of its action regarding the dismissal of the present workman.

In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **POINT NO. 2** :The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him *vide* application dtd. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application *vide* order dt. 28-1-2003. The order passed therein runs "the learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint permission granted. Application is allowed".

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts, and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. I of Civil P.C.

8. In view of the finding on Point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का. आ. 4154.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 16/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4154.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 16/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co. Goa and their workman, which was received by the Central Government on 26-09-2006.

[No. L.-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1

MUMBAI

PRESENT:

JUSTICE GHANSHYAM DASS, Presiding Officer

Application/Complaint No. CGIT-16/2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES:

Mr. Nilu Tilgo Panshekhar : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES:

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri V. V. Pai, Adv.

State : Maharashtra,

Mumbai, dated this 1st day of September, 2006

AWARD

The workman Shri. Nilu Gilgo Panshekar has moved the instant application dtd. 22/5/2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dtd. 06/8/2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33 (2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V.V. Pai, for the Complainant moved an application dtd. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **Point No. I** : The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. NO. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided *vide* Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Dispute Act 1947. For considering *Whether the action of the Managing Director, Chowgule and Company Ltd, Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f.. 2.11.1995 is just, valid and legal? If not then, what benefits the workman is entitled to?*

Vide Award dated 29/3/2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule

Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will make him a workman" concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

Point No. 2: The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dtd. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dtd. 28-1-2003. The order passed therein ruos *The learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".*

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

8. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का. आ.4155—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 2/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O.4155.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co. Goa and their workmen, which was received by the Central Government on 26-09-2006.

[No. L.-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT

Justice Ghanshyam Dass, Presiding Officer

Application/Complaint No. CGIT-1/2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Mr. Arvind V. Pednekar : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri. V.V. Pai, Adv.

State : Maharashtra.

Mumbai, dated this the 1st day of September, 2006

AWARD

1. The workman Shri Arvind V. Pednekar has moved the instant application dt.22/5/2003 under Section 33-A of the Industrial Disputes Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CG IT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dtd. 06/8/2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V. V. Pai, for the Complainant moved an application dtd. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman:

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **Point No. 1** : The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of COIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide A ward dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act 1947. For considering whether the action the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging .from services of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f 2-11-1995 is just valid and legal? If not, then, what benefits the workman is entitled to?

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the Grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *vs.* D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another*

workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not. No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **Point No. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs. The learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *vs.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

8. In view of the finding on point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presidig Officer

नई दिल्ली, 26 सितम्बर, 2006

का. आ. 4156.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-I के पंचाट (संदर्भ संख्या 1/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4156.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/2003) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co. Goa and their workmen, which was received by the Central Government on 26-09-2006.

[No. L.-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Present

JUSTICE GHANSHYAM DASS, Presiding Officer

Application/Complaint No. CGIT-1/2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Atmaram Guno Gawde	:	Complainant
	V/s.	
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES

For the Opp. Party	:	Shri R. N. Shah, Adv.
For the Complainant	:	Shri. V.V. Pai, Adv.
State	:	Maharashtra.

Mumbai, dated this 1st day of September, 2006

AWARD

The workman Shri Atmaram Guno Gawde has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Disputes Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 06-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?.

5. **Point No. 1** : The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub section 1 of Section 10 of the Industrial Disputes Act, 1947. For considering whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f 2.11.1995 is just valid and legal? If not then, what benefits the workman is entitled to?

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the Grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not. No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **Point No. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint

does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs *"The learned counsel for the Complainant Shri V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".*

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT No. 49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT No. 27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

8. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का. आ. 4157.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 5/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4157.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 5/2003) of the Central Government Industrial Tribunal, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workmen, which was received by the Central Government on 26-09-2006.

[File No. L.-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

JUSTICE GHANSHYAM DASS, Presiding Officer

Application/Complaint No. CGIT-5/2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES:

Mr. Parshuram Govind Varpe : Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES:

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri. V.V. Pai, Adv.

State : Maharashtra

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Parshuram Govind Varpe Pereira has moved the instant application dt.22-5-2003 under Section 33-A of the Industrial Disputes Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference No. CG IT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 06-8-2003 *inter alia* on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a

prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Disputes Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **Point No. 1** : The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section 1 of Section 10 of the Industrial Dispute Act 1947. *For considering Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight away discharging from services of Mr. S. S. Naik, Ex-Electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f 2.11.1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"*

Vide Award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that *the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with if or not.* No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

6. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

7. **Point No. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application vide order dt. 28-1-2003. The order passed therein runs. *"The learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".*

8. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present

complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

8. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का. आ. 4158.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 3/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4158.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/203) of the Central Government Industrial Tribunal Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co. Goa and their workmen, which was received by the Central Government on 26-09-2006.

[No. L.-29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, MUMBAI

PRESENT

JUSTICE GHANSHYAM DASS, Presiding Officer

Application/Complaint No. CGIT-03 of 2003

(Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Mr. Thomas Antone Pereira: Complainant

V/s.

Chowgule and Co. Ltd. : Opp. Party

APPEARANCES

For the Opp. Party : Shri R. N. Shah, Adv.

For the Complainant : Shri. V.V. Pai, Adv.

State : Maharashtra.

Mumbai, dated this 1st day of September, 2006

AWARD

1. The workman Shri Thomas Antone Pereira has moved the instant application dt. 22/5/2003 under Section 33-A of the Industrial Dispute Act (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and continuity of service. The ground for the claim is that Chowgule and Co. Ltd, Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company) has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 06-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri. V. V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for by the learned counsel for the workman.

(1) Whether Section 33(2)(b) of the Industrial Dispute Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **Point No. 1 :** The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of sub-section I of section 10 of the Industrial Dispute Act 1947. For considering : "Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straight-away discharging from services of Mr. S. S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f 2-11-1995 is just valid and legal? If not then, what benefits the workman is entitled to"?

Vide Award dated 29/3/2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the Grievances regarding dismissal of the workman namely Mr. S.S. Naik who was working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra Vs. D.T.M.S.T.S. Koraput and another 1976 LAB I.C. 1260 and the Honourable High Court had held that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concerned" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with if or not. No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **Point No. 2** : The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18/11/2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The Learned Presiding Officer allowed that application vide order dt. 28/1/2003. The order passed therein runs The learned counsel for the Complainant Shri. V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner Vs. State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R. 1 of Civil P.C. I feel that this ruling is not helpful on the facts and circumstances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen of the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R. 1 of Civil P.C.

8. In view of the finding on point No.1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2006

का.आ. 4159.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. चौगुले एंड कं., गोवा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुम्बई-I के पंचाट (संदर्भ संख्या 21/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-09-2006 को प्राप्त हुआ था।

[सं. एल-29025/2/2006-आई आर(विविध)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 26th September, 2006

S.O. 4159.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 21/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Chowgule & Co., Goa and their workman, which was received by the Central Government on 26-09-2006.

[No. L 29025/2/2006-IR (Misc.)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT:

Presiding Officer : Justice Ghanshyam Dass

Application/Complaint No. CGIT-21 of 2003 (Arising out of Ref. No. CGIT-1/27 of 1996)

PARTIES

Mr. Madhukar G. Salve	:	Complainant
V/s.		
Chowgule and Co. Ltd.	:	Opp. Party

APPEARANCES:

For the Opp. Party	:	Shri R.N. Shah, Adv.
For the Complainant	:	Shri V.V. Pai, Adv.
State	:	Maharashtra.

Mumbai, the 1st September, 2006

AWARD

The workman Shri Madhukar G. Salve has moved the instant application dt. 22-5-2003 under Section 33-A of the Industrial Disputes Acts, (hereinafter referred to as the Act). The prayer made therein is for withdrawal of the dismissal order and reinstatement with back wages and countinuity of service. The ground for the claim is that Chowgule and Co. Ltd., Chowgule House, Mormugao Harbour, Goa (hereinafter referred to as Company has violated the mandatory provisions of Section 33(2)(b) of the Act on account of pendency of the Reference CGIT-27 of 1996.

2. The application is being contested by the Company on several grounds taken up by it in its reply dt. 6-8-2003 inter alia on the pleas that there is no violation of the provisions of the Section 33(2)(b) of the Act and that the present Complainant is now estopped from filing the present complaint on account of dismissal of his earlier complaint. The matter remained pending for one reason or the other. In view of the legal pleas taken up by the Company, the learned counsel Shri V.V. Pai, for the Complainant moved an application dt. 17-7-2006 with a prayer that the maintainability of the present complaint may be considered first. It is surprising that such an application should have been moved by the Company taking up of the preliminary issue but the Company did not chose for it. Instead, the workman has moved the instant application.

3. The argument advanced by the learned counsel for the parties have been heard and the record is perused.

4. The following points arise for consideration, as prayed for the learned counsel for the workman:

(1) Whether Section 33(2)(b) of Industrial Disputes Act has been violated?

(2) Whether the Complainant is now estopped from filing the present complaint?

5. **Point No. 1** : The present complaint is being admittedly filed for violation of the provisions of the Section 33(2)(b) of the Act on account of pendency of CGIT-1 Ref. No. 27 of 1996. Admittedly, the CGIT No. 27 of 1996 was pending before this Tribunal on the day of moving of the instant complaint under Section 33-A of the Act. The reference was decided vide Award dt. 29-3-2004. This reference was made by the Central Government under clause (d) of Sub-section 1 of Section 10 of the Industrial Disputes Act, 1947. For considering "Whether the action of the Managing Director, Chowgule and Company Ltd., Chowgule House, Mormugao-Harbour in straightaway discharging from services of Mr. S.S. Naik, Ex-electrician Code No. 1937 as well as the General Secretary of the recognized Chowgule Employees Union w.e.f. 2-11-1995 is just, valid and legal? If not then, what benefits the workman is entitled to?"

Vide award dated 29-3-2004, it was held that dismissal was bad and the workman was reinstated with back wages. It is clear from the perusal of the record that the reference was wholly with respect to the grievances regarding dismissal of the workman namely Mr. S.S. Naik who was

working as Electrician with Code No. 1937 and was holding the post of General Secretary of the recognized Chowgule Employee's Union. This cannot be said to be in any stretch of imagination that the dispute was in between all the workmen and the Company, since the reference was only having the subject matter of the dismissal of a specific employee Mr. Nair. It is altogether immaterial that this workman was holding the post of General Secretary. The holding of post of General Secretary of the Union was in his independent capacity. It was not related with the job which he was required to perform as Electrician. The dismissal was made by the Company for a particular workman and not the General Secretary. The fact that the workman happened to be the General Secretary of the Union did not mean that there was a dispute in between the workmen as a community and the Company. In this view of the matter the present workman cannot be said to be concerned in any manner to attract the provisions of the violation of Section 33(2)(b) of the Act. The matter for consideration had come before the Honourable High Court of Orissa in the case of Khagendra Prasad Patra *Vs.* DT.M.S.T.S. Koraput and another, 1976 LAB. I.C. 1260 and the Honourable High Court had held that the mere fact that the petitioner workman was a member of the Union which had taken up the pending dispute of another workman will not make him a workman "concemed" in the dispute within the meaning of Section 33(1)(a). It is the dispute that the workman has to be concerned with and not only with the parties to the dispute. It is after ascertaining the nature of the pending dispute that the Court can reach the conclusion whether the workman is "concerned" with it or not. No case law has been submitted by the learned counsel for the workmen to substantiate his arguments that the present workman was concerned in any manner with the pendency of the Ref. No. 27 of 1996. The necessity for compliance of Section 33(2)(b) of the Act was required for the Company only when there was a pending dispute in between the workman as a group and the Company involving the issues relating to general importance. The pendency of a dispaute of a particular employee regarding his dismissal cannot be said to be a dispute relating to the workman as a whole. Hence, I conclude that there was no necessity for the Company to follow the mandatory provisions of Section 33(2)(b) of the Act and seek approval of its action regarding the dismissal of the present workman.

5. In this view of the matter the present complaint under Section 33-A of the Act is not maintainable.

6. **Point No. 2 :** The plea of the Company that the Complainant is estopped from filing the present complaint does not appear to have any force for the obvious reason that the previous complaint filed by the workman under Section 33-A of the Act was got dismissed by him vide application dt. 18-11-2002 wherein the prayer was for withdrawal of the Complaint with liberty to file a fresh complaint. The learned Presiding Officer allowed that application *vide* order dt. 28-1-2003. The order passed therein runs "The learned counsel for the Complainant Shri V. V. Pai filed an application seeking permission to withdraw the complaint. The permission granted. Application is allowed".

7. The learned counsel for the Company submitted that there was no specific order for granting liberty of filing a fresh complaint. He relied upon a case law AIR 1987 Supreme Court 88 in between Sarguja Transport Service, Petitioner *V/s.* State Transport Appellate Tribunal, Gwalior and others and submitted that the present complaint is barred by the provisions of the Order XXIII R.1 of Civil P.C. I feel that this ruling is not helpful on the facts and circmustances of the present case in view of the order of the Tribunal quoted above whereby the Tribunal allowed the application with specific words "Permission granted". Hence, it does not lie in the mouth of the Company to say that present complaint is now barred. It may also be mentioned that the aforesaid complaint was being moved on account of pendency of the reference CGIT-49 of 1995 regarding the dismissal as of two different workmen by the Company to the workmen to the CGIT-27 of 1996. Hence, I conclude that the present application is not barred by Order XXIII R.1 of Civil P.C.

8. In view of the finding on Point No. 1 the result is that the present complaint is not maintainable. It is accordingly dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 27 सितम्बर, 2006

का.आ. 4160.–औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय अरनाकुलम के पंचाट (संदर्भ संख्या 119/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-9-2006 को प्राप्त हुआ था।

[सं. एल-40012/115/2005-आई आर (डीयू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 27th September, 2006

S.O.4160.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 119/2006) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 27-09-2006.

[No. L-40012/115/2005-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT:

Presiding Officer, Shri P.L. Norbert, B.A., LL.B.

(Thursday, the 21st day of September, 2006)

I.D. No. 119/2006.

Workman/Union : The District Secretary, BSNL Employees' Union P&T House Alapuzha.

Management : The General Manager, Bharat Sanchar Nigam Ltd., Alleppey Telecom District Allepey-688 011.

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :—

"Whether the action of the management of the General Manager, Bharat Sanchar Nigam Ltd., Alleppey Telecom District, Alleppey Kerala, in not considering Shri G. Narayanan Nair, Ex-mazdoor for empanelment in the panel of casual employees, is just and legal? If not, to what relief the workman is entitled to and from which date?"

2. Though notice was served on both sides, management alone entered appearance. Notice to union was given twice. Still nobody is present. Hence it has to be presumed that there is no existing dispute for adjudication. Therefore I find that the action of the management in not considering Shri G. Narayanan Nair, Ex-mazdoor for empanelment in the panel of casual employees, is just and legal and an award is passed accordingly. No cost.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 21st day of September, 2006.

P.L. NORBERT, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2006

का.आ. 4161.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 294/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-09-2006 को प्राप्त हुआ था।

[सं. एल-12011/93/2002-आई आर (बी.II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th September, 2006

S.O. 4161.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 294/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank and their workman, which was received by the Central Government on 19-09-2006.

[No. L-12011/93/2002-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri T. Ramchandra Reddy, Presiding Officer

Dated the 22nd day of August, 2006

Industrial Dispute No. 294/2002

BETWEEN

The Regional Secretary,
Vijaya Bank Workers Organization,
III floor, Swarnalok Complex,
Eluru Road,
Vijayawada .... Petitioner

AND

The Asst. General Manager,
Vijaya Bank, Regional Office,
Ist floor, Ist lane,
Maruthinagar,
Mazjid Street,
Vijayawada .... Respondent

APPEARANCES:

For the Petitioner : M/s. G. Vidya Sagar, K. Udaya Sri, K. Sudheer Rao, B. Shivakumar and D. Madhusudhan, Advocates.

For the Respondent : M/s. E. Ajay Reddy, N.V. Ramana Rao, Y. Arjun Rao & K. Ravi Kumar Chary, Advocates.

AWARD

This is an industrial dispute referred by the Government of India, Ministry of Labour by its order No. L-12011/93/2002-IR(B-II) dated 16.7.2002 in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 for adjudication with the following Schedule :

SCHEDULE

"Whether the management of Vijaya Bank is justified in imposing the punishment of reduction to a lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon Smt. C. Priyamvada? If not, what relief is the disputant concerned entitled to?"

2. The workwoman Smt. C. Priyamvada is represented by the Regional Secretary, Vijaya Bank Workers Organization, Vijayawada. It is submitted that the workwoman worked as a clerk at Guntur branch in the Respondent organization during the period 16-10-86 to 20-5- 98. The Respondent has introduced Vijaya Stock Invest Deposit (in short VSID) and induced the employees to increase the deposits under the said scheme. An enquiry was conducted by the Senior Manager on the basis of a complaint received with regard to the said scheme, who held that Chief Manager, the then Senior Branch Manager, Assistant Manager are responsible for certain procedural irregularities in not guiding clerical staff. Subsequently 3 clerks were suspended and charge sheets were issued against 27 employees who worked at Guntur branch including the Petitioner workwoman.

3. The charge sheet dated 28.7.1999 alleging that she speculated in stocks/shares and getting issued VSIDs for self and in the names of her family members to gain undue pecuniary benefits and authorizing issuance of VSIs on staff members and their friends and relatives against VSIDs standing in the name of bank customers and accounts opened in benami names without necessary funds to confer undue pecuniary benefits at the cost of the bank constituting misconduct under Clause 19.5 of bi-partite settlement.

4. Inspite of submitting the explanation an enquiry was ordered by the Respondent Management by appointing an Enquiry Officer. After completion of enquiry the Enquiry Officer submitted his report dated 8-9-2000 holding that the first charge is not proved and the second charge is partly proved. The workwoman has submitted representation dated 26-9-2000 against the findings of the Enquiry Officer. But the Disciplinary Authority without considering the same issued a show cause notice proposing the punishment as stated in the schedule. The workwoman has submitted a detailed explanation dated 22-12-2000 but the Disciplinary Authority has confirmed the proposed punishment by his order dated 12-1-2001. The appeal filed by the workwoman was rejected by an order dated 3-5-2001. It is further submitted that the Disciplinary Authority failed to see that there is no complaint against the workwoman for mis-utilization of VSIDs of the bank customers. It is further submitted that the findings of the Enquiry Officer and Disciplinary Authority are erroneous and failed to see that the Chief Manager/Branch Manager is a custodian of the branch and responsible for not following the instructions and guidelines and the lower staff including the workwoman has only carried out the instructions in good faith. It is further submitted that Disciplinary Authority failed to see that the deviations in the implementation of the scheme did not effect the bank transcations and further there is no financial loss.

5. The Respondent filed counter and denied averments made by the workwoman and admitted that workwoman was issued chargesheet and on receiving the explanation an enquiry was ordered by appointing Enquiry Officer. It is also admitted that Enquiry Officer has submitted his report holding that charge No.1 is not proved and charge No.2 is partly proved. It is also admitted that the Disciplinary Authority after considering the explanation given by the Petitioner workwoman, issued a show cause notice proposing the punishment. Further, on considering the representation of the Petitioner to the show cause notice, he has confirmed the findings of the enquiry and also held that second charge is entirely proved.

6. It is further submitted that the Petitioner workwoman Smt. C. Priyamvada got issued VSIs standing in the name of bank customers and impersonated by affixing the signatures of the customers in violation of the rules governing VSID accounts. The fact that the signature appearing the copy of VSIDs tallies with that of his signature on the copy of the register which proves that the workwoman has issued VSIs against VSIDs of the customers in deriving undue benefit to himself and this fact was also established during the enquiry. The other staff members at Guntur branch who were involved in similar acts of misconduct were charge sheeted and disciplinary action was taken. It is further submitted that during enquiry the Management got marked documents M Ex.1 to M Ex. 8 by examining one witness in support of the charges and the Petitioner got marked 9 documents and did not examine any witness. On considering the evidence and explanation given by the workwoman the Disciplinary Authority has inflicted the punishment which is in consonance with the gravity of the charge.

7. After hearing both sides this tribunal passed an order dated 3-4-2004 on the preliminary issue of validity of domestic enquiry, holding that the domestic enquiry conducted by the Respondent Management is valid. Arguments heard under Sec. 11 A of Industrial Disputes Act, 1947 from both sides.

8. It is contended by the Learned Counsel for the Petitioner that the Enquiry Officer held that the first charge is not proved and the second charge was partly proved, even though the Enquiry Officer observed in his report that there is nothing on record to show that the chargesheeted employee has speculated in stocks and shares and no evidence was produced to verify whether any of the VSID accounts were in benami names and further contended that the shares were not allotted in the name of the workwoman or his relatives, as such, there is no financial loss to the bank.

9. On the other hand, it is contended by the counsel for the Respondent that the Enquiry Officer on considering the entire material on record found that the chargesheeted employee obtained VSI against VSID of customers authorizing such transactions to benefit certain staff members and their friends and relatives thereby attempting to get the shares allotted without any investment with the funds belonging to the customers which amounts to a misconduct causing an act of prejudicial to the interest of the bank and further contended that the Disciplinary Authority differing with the opinion of the Enquiry Officer, that the charge No.2 is partly proved held on considering the entire material and the explanation of the workwoman that the charge No.2 was entirely proved and further contended that the evidence on record is sufficient to corne to the conclusion that the second charge against the workwoman is established. Further contended that the punishment is in consonance with the gravity of the charge.

10. The chargesheeted workwoman was charged with the following charges: "(i) Your action of speculating in stocks and shares by indulging in fraudulent acts as aforesaid constitutes gross misconduct under sub-clause (i) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966. (ii) Your action of getting issued VSIs for self against VSIDs standing in the names of Bank's customers and in benami name contrary to the rules governing VSID accounts constitute gross misconduct within the meaning of sub-clause (j) of clause 19.5 of Chapter XIX of the Bipartite Settlement, 1966". On behalf of the Management one witness was examined as MW 1, during the enquiry the documents M Ex.1 to M Ex.8 were marked. As against this evidence the chargesheeted employee got marked 9 documents and she did not choose to examine any witness. The Enquiry Officer on considering the evidence observed that the chargesheeted employee has authorized to issue various VSIs in different names of the staff members and their friends and relatives besides one in her own name and it is further observed that even though VSIs issued in the name of chargesheeted employee were credited to the VSID holders account on cancellation and it was possible to chargesheeted employee would have derived pecuniary benefits had the said VSI has been allotted. So also, in the case in respect of other VSIs issued in the name of staff members, their friends and relatives.

11. During the enquiry the Enquiry Officer observes as follows:

> "The Presenting officer in his written brief has stated that Chargesheeted employee has availed VSI 760688, 905359 and 904238 in her name against VSID 733/93, 17/92 and 645/93 standing in the name of Bank's customers Viz., V. Ramya, V.V. Ramana Rao and M. Rajeswari respectively in violation of instructions contained in HOC 149/92 and 169/93. He has further stated that the signatures of CSE appearing in the above VSIs tallied with the signature appearing in Ex.M7 (incumbent register) except 'initial' part."

12. The Disciplinary Authority on considering the material on record has confirmed the report of the Enquiry Officer and observed as follows:

"A perusal of the findings of the EO reveal that after carefully analyzing the evidence adduced during the enquiry and on taking into consideration the averments of PO and DR in their written briefs, EO has held that it is established that CSE got issued VSIs 760688, 905359 and 904238 against VSIDs 733/93, 17/92 and 645/93 standing in the names of bank's customers. Signatures of the CSE as appearing in the said VSIs tallies with the signature appearing in EXM-7 i.e., the incumbent register.

The aforesaid documents substantiate beyond any doubt the fact of CSE's getting issued VSIs against VSIDs of customers in the circumstances, the contention of the CSE that EO could not come to any definite conclusion, has not applied his mind judiciously/independently etc., are not tenable and hence rejected. In regard to the contention of the CSE that the charge is either proved or not proved and it cannot be held as partly proved, a perusal of findings of EO reveal that he has made out certain relevant issues and only thereafter furnished his findings. Amongst others, he has arrived at a conclusion that no evidence is produced to verify whether any of the VSID accounts were in benami names. While EO has held that no evidence was adduced during the enquiry to prove whether any VSID accounts were opened in benami names, getting issued VSIs against VSIDs of customers is held as proved, thus holding charge No.2 as partly proved. Further, obtaining VSIs against VSIDs of customers i.e., attempting to get the shares allotted without any investment whatsoever with the funds belonging to customers is an act prejudicial to the interest of the bank to gain pecuniary benefit. CSE might not have succeeded in getting the shares allotted. Merely because she was not allotted with shares, it cannot be construed that the same is not prejudicial to the interest of the bank as the said act on the part of the employee amounts to breach of trust reposed in her by the bank which is very grave in nature."

13. It should be noted that the charge sheet issued against the workwoman dated 28-7-1999 was issued on the basis of the preliminary enquiry conducted into the matter and also finding it a prima facie case against the workwoman. The scheme has to be operated as per the guidelines and circulars issued from time to time and not as per instructions given by the Manager. It is true that there is no prohibition on the part of the employees of the bank availing the benefits of VSID scheme. But the VSIs can be got issued only against the VSID in their accounts. But the present case on contrary to the guidelines the workwoman got issued VSIs in her name against VSI deposits standing in the name of the customers, thereby attempted to get the shares allotted without any investment with the funds belonging to the customers. The Disciplinary Authority has carefully considered the entire material on record and

the evidence adduced by both the parties and rightly concluded giving cogent reasons and the Enquiry Officer as well as the Disciplinary Authority has analyzed all the issues involved in the charge on the basis of the material on record and correctly concluded that the second charge against the workwoman is proved. The contention of the Learned Counsel for the Petitioner workwoman that there is no financial loss to the bank is not tenable as the financial loss is irrelevant for working of the bank.

14. The Disciplinary Authority on considering the gravity of the charge has inflicted appropriate punishment which is commensurate with the gravity of the misconduct.

15. On considering the material on record, I am satisfied that the Disciplinary Authority has rightly infected the punishment. I do not see any ground to interfere with the punishment.

16. Therefore, I hold that the Respondent bank is justified in imposing the punishment of reduction to the lower stage in the time scale of pay by one stage with cumulative effect for a period of one year upon Smt. C. Priyamvada.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and conected by me on this the 22nd day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner : NIL

Witnesses examined for the Respondent : NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 28 सितम्बर, 2006

का.आ. 4162.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 60/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-09-2006 को प्राप्त हुआ था।

[सं. एल-12012/9/97-आई आर (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th September, 2006

S.O. 4162.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 60/1998) of the Central Government Industrial Tribunal cum Labour Court, Kanpur (U.P.) as shown in the Annexure in the Industrial Dispute between the management of Allahabad Bank and their workman, received by the Central Government on 25-9-2006.

[No. L-12012/9/97-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI SURESH CHANDRA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR, U.P.

Industrial Dispute No. 60 of 1998

In the matter of dispute between :

U.P. Bank Workers Federation
Auth. Representative UPWB Federation,
c/o R.B.I. Employees Association, RBI Building,
Kanpur.

AND

Regional Manager.
Allahabad Bank.
Regional Office.
Meerut Region.
Meerut, U.P.

PRESENT : Sri M.K. Verma LLR for the Bank None for the workman.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide notification No. L-12012/9/1997-IR (B-II) dated 3-4-98 has referred the following dispute for adjudication to this Tribunal :—

> "Whether the action of the management of Allahabad Bank in not paying cashier incharge/Head Cashier Category 'E' Allowance to Sh. Ramji Lal for the period 5-10-87 to 31-10-89 is legal and justified ? If not, to what relief the said workman is entitled ?"

2. The case of the Union on behalf of the workman Ramji Lal is that a settlement between the union and the management of Allahabad Bank arrived at on 22-1-83 and Chapter III or the same deals with Staff Promotion Rules pertaining to staff of cash department which provides classification of branches and cashier allowances to the Head Cashier/Incharge Cashier in cash department of a branch. It further provides that if a branch of the bank procures deposit of Rs. 100/- Lacs or more and this figure remains continuously for more than one year in that case the Head cashier/Cashier incharge of the said branch will receive head cashier allowance of category 'E'. It is the further case of the union is respect of the workman that during the period when the workman remained posted at Bank's Kabari Bazar Branch at Merrut the total deposit of the branch was less than 100 lacs and the workman was in receipt of Rs. 316/- per month as Head cashier category 'C' allowance per month. The total deposit of the branch crossed the limit of 100/- lacs w.e.f. 3-7-86 and which limit continuously remained for over one year. As a result of

which the branch should have been identified for upgradation and for posting of Head cashier category E. It is the case of the workman that earlier to 3-7-86 opposite party bank posted its manager as Branch Manager of the scale of JMGS-I and soon after the deposit exceeded 100 lacs and remained continuously for over one year the opposite party bank started making payment to the manager of the branch officiating allowance of the scale of JMGS-II still the workman has not been paid officiating allowance of Head cashier category 'E' at the rate of Rs. 489 per month despite the fact that the workman performed the duties of higher degree of responsibility. The action of the management in this regard is discriminatory and is not sustainable in the eye of law. On the basis of the above pleadings it has been prayed that the workman be held entitled for difference between 319 and Rs. 489 as officiating allowance for the period 5-10-87 to 3-10-89 total of which comes to Rs. 4465.62 paisa.

3. The opposite party contested the claim of the union raised on behalf of the workman and it has been pleaded that the total deposit of the branch exceeded one crore in the month of July 86 and this position remained continued for over one year, therefore, according to rules and terms and conditions of aformentioned settlement, the process for upgradation of this branch was started and after completion of all formalities, this branch was reclassified. The bank denied the fact that the workman be deemed to be Head cashier category 'E' automatically because the said branch of the opposite party bank was reclassified as Category 'E' from Category 'C' on 1-1-88 and for filling this recategorised post vacancy was circulated by Central Zonal Office, Lucknow and ultimately suitable and eligible condidate was posted as Cashier incharge category 'E' at this branch on 5-3-90. In this way the claim of the workman demanding differences of wages in the shape of Head cashier category 'C' & 'E' is not maintainable being devoid of merit and the workman is not entitled for any relief.

4. After exchange of pleadings between the parties the case was taken up for evidence of the parties and the workman was given repeated Aopportunities to lead his evidence but despite that the workman did not turn up to lead his evidence, hence the workman was debarred from his evidence by order dated 25-6-03 and the case was taken up for the evidence of the management. The management produced its evidence on affidavit of one of its officer by name Ashok Kumar Goyal in support of their case. Further opportunity to cross examine the management witness was provided to the workman still workman did not turn up. Therefore final arguments in the case were heard on 24-8-06 from the side of the management as none was present from the side of the workman to argue the case.

5. Thus from the above discussion of pleadings of the parties it is obvious that the management has been able to prove his case by adducing their evidence which stands uncontroverted. Therefore, the tribunal is inclined to believe the case that the workman could not be held entitled for difference of officiating allowance automatically unless the branch is notified by the Central Zonal Office, Lucknow, which admittedly notified by the bank in the month of July 1986 and after completing formalities regular posting of Head Cashier category 'E' was made on 1-1-88.

6. In view of above the action of the management in not paying cashier incharge head cashier category 'E' allowance to the concerned workman Sri Ram Ji Lal for the period 5-10-87 to 31-10-87 cannot be held to be illegal or unjustified. Consequently workman cannot be held entitled for any relief.

7. Reference is therefore decided against the workman and in favour of the opposite party bank.

SURESH CHANDRA, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2006

का.आ. 4163.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे श्रम न्यायालय नासिक के पंचाट (संदर्भ संख्या 95/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-2006 को प्राप्त हुआ था।

[सं. एल-12012/337/96-आई आर (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th September, 2006

S.O.4163.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 95/1997) of the Labour Court, Nashik as shown in the Annexure in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 25-9-2006.

[No. L-12012/337/96-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SHRI M.M. AGRAWAL,
PRESIDING OFFICER LABOUR COURT, NASHIK

REFERENCE IDA No. 95/1997.

BETWEEN

Assistant General Manager,
Bank of Maharashtra,
Girha Nirman Bhawan,
Old Agra Road, Nashik-422002. ....First party

And

General Secretary,
Maharashtra Bank Karmachari Sangh,
674, Ravivar Peth, Ravivar Karanja,
Gadre Marg, Nashik-422001. ....Second party

PRESENT:

Shri M.M. Agarwal, Judge.

APPEARANCES

Shri B.R. Patil Advocate for first party.
Shri S.S. Jape Advocate for second party.

AWARD

(27-7-2006)

1. The present reference is sent to this Court by the Central Government under Section 10 of Industrial Disputes Act, 1947 for adjudication of the following dispute between the parties, viz. Bank of Maharashtra has dismissed the services of workman Shri Prakash A. Parhare from 11-9-1984. Whether the said discissal is legal and justified, If not, to what relief, the concerned workman is entitled to get ?

2. Maharashtra Bank Karmachari Sangh has filed statement of claim on behalf of workman Shri Pathare stating that,

The workman Shri Pathare was working as peon in Nandurshingote branch of Maharashtra Bank and he was, working as per the directions of senior officers. However, the senior officers were getting the work done of clerk from workman Shri Pathare.

The officers of the Bank issued false charge sheet and illegal equiry was held against him to hold the said workman guilty and thereafter dismissed him from service. The enquiry conducted by the bank is in utter disregard of principles of natural justice, illegal and improper. On the bais of the enquiry, the Bank dismissed the workman Shri Pathare from services from 31-8-1994. The Maharashtra Bank Karmachari Sangh prayed for setting aside the dismissal order of Shri Pathare and he be reinstated with continuity of service and full back wages.

3. Bank of Maharashtra opposed the demand of Karmachari Sangh by filing written statement at Ex. C-2. It is the contention of the Bank that Shri Pathare was working as Safai Karmachari on temporary basis. The conduct of Shri Pathare was illegal and improper. On 10-1-1990 only an amount of Rs. 2.04P. was balance in his credit in the saving bank account. However, he conote figure 1 (one) before 2 and made Rs. 12.04 and withdraw amount of Rs. 10/- from the account. Similarly, on 7-9-1991 he made false signature of Shri B. M. Tapse and withdrew an amount of Rs. 1000/- from the account of Shri B.M. Tapse. Similarily, he filled in falsetender in the name of Shri N.K. Jadhav and took the loan in the name of his relative in I.R.P.D. Scheme.

4. The workman Shri Pathare was absent on 1-2-1992. Inspite of it, be signed the muster roll of 1-2-1992 after 15-2-1992.

5. Due to the above serious acts of misconducts, the Bank of Maharashtra issued charge sheet dated 9-9-1992 to the workman Sri Pathare and enquiry was held in accordance with the provisions of law. Since the charges levelled against him were proved in the enquiry, he was dismissed from the service. The workman Shri Pathare had filed appeal. The same is also dismissed. Hence, the demand made by the Bank Karamachari Sangh be rejected and the reference be dismissed.

6. On the basis of rival contentions of both the parties, my learned predecessor had framed following issues at Ex. O-6 and I have recorded my findings followed by the reasons.

	ISSUES	FINDINGS
(1)	Whether the enquiry was fair and proper?	...Yes.
(2)	Whether the findings of the Enquiry Officer are justified ?	...Yes.
(3)	Whether the action of termination was by way of victimization ?	...No.
(4)	Whether the second party is entitled to reinstatement with continuity of service and back wages	...No.
(5)	Waht award ?	...As per finnal order

REASONS

1. To prove their case, the Bank Karamchari Sangh has examined the Zonal Secretary Shri Prafulla Sakhalkar and the workman Shri Pathare has filed affidavit. The Bank of Maharashtra has nor cross examined the said witness of Sanghatana. So also the Bank has also not lead oral evidence.

2. As to issue No. 1 and 2.

The Bank Karmachari Sanghatana has admitted that Bank has conducted enquiry and therefore, it was responsibility of the Karmachari Sanghatana to prove the said enquiry was illegal or in uttar disregard of principles of natural justice.

3. During the course of oral evidence of witness of Sanghatana, Shri Prafulla Sakhalkar was shown the charge sheet issued by the Bank. He has stated that the charges are false, no enquiry was held and findings of the enquiry officer are also perverse.

4. The workman Shri Pathare has nowhere stated that Bank has not conducted enquiry. On the contrary, it appears from his affidavit that, the charge sheet issued by the bank, described various charges levelled against him in detail. The workman Shri Pathare or Sanghatana nowehere states that they were not given the opportunity of defence or that they were not given opportunity to put up their defence. The Sanghatana has not brought on record anything to show that the enquiry conducted by the Bank is illegal or improper.

5. Similarly though it is the contention of the Sanghatana that the bank has issued false charge sheet and the enquiry officer gave preverse findings, the Sanghatana or the workman Shri Pathare has not stated any reasons as to why false charge were levelled against the workman.

6. The Bank has filed the enquiry proceedings on record, from which it appears that, in the enqury, the bank has filed the record which was tampered by workman Shri Fathare. There was charge against the workman Shri Pathare that, he has made false signature of Shri B.M. Tapase and he has withdrawn an amount of Rs. 1000 from his account. The bank has sent the sample of hand writing of Shri Pathare to the hand writing expert and the hand writing expert has given a report that the hand writing on the form of Shri B.M. Tapase is of the workman Shri Pathare.

7. It is alleged by the Karmachari Sangthana in statement of claim that, the senior officers of the bank were getting done the work of clerk from the workman Shri Pathare and the bank has stated in their written statement that the workman Shri Pathare has illegally tampered the record. The workman Shri Pathare states in his affidavit that he being the Safai Worker, it was not possible for him to reach upto record of Bank. He has nowhere stated in his affidavit that the bank was getting done from him the work of clerk. From this, it appears that workman Shri Pathare is trying to hide the truth.

8. The workman Shri Pathare has stated in para No. 6 of affidavit in the last line that the findings given by the enquiry officer are perverse and he will show it at the time of arguments as to how the findings are perverse. But at the time of arguments, workman Pathare has submitted an application at Ex. U-10 stating that his afidavit be treated as arguments.

9. In the case Gorantala Venketesh Vs. B. Deyndor reported in AIR 2003 Andhra Pradesh-251, the Hon. High Court has observed that the record of Nationalised Bank is a public document, therefore, it is not necessary to examine the person who prepared it, for proving the same.

The Bank of Maharashtra is one of the Nationalised Banks. The workman Shri Pathare or the Karmachari Sanghatana has not stated any reason as to why the Bank issued false charge sheet or making false enquiry. So also they have not adduced any evidence for the same. On the contrary, it is proved from the record of enquiry proceedings that, the enquiry conducted is fair and proper and the findings of the enquiry officer are also justified. Hence, I answer issue No. 1 and 2 in affirmative.

10. **Issue No. 3 to 5 together :**

It is established from the enquiry held by the Bank that misconduct of the workman Shri Pathare was very serious in nature and therefore it cannot be said that the action of the Bank in terminating the services of Shri Pathare is by way of victimization and as the action of Bank in terminating the services of Shri Pathare is proper and justified, the workman Shri Pathare is not entitled to any of the reliefs prayed for. Hence, I answer issue No. 3 and 4 in the negative.

11. In the light of above discussion, the reference goes against Shri Pathare. Hence, I pass following order.

ORDER

1. The reference stands dismissed.

2. The award be sent for Publication to the Desk Officer, Government of India, Ministry of Labour, New Delhi.

Nashik :

Dated : 27-7-2006. M.M. AGRAWAL, Presiding Officer

नई दिल्ली, 28 सितम्बर, 2006

का.आ. 4164.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आन्ध्रा बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद मे केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 167/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-09-2006 को प्राप्त हुआ था।

[सं. एल-12025/1/2006-आई आर (बी. II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th September, 2006

S.O. 4164.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 167/2002) of the Central Govenrment Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Andhra Bank and their workmen, which was received by the Central Government on 21-9-2006.

[No. L-12025/1/2006-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HYDERABAD

PRESENT :

SHRI T. RAMACHANDRA REDDY, Presiding Officer

Dated 13th September, 2006

Industrial Dispute No. 167/2002

BETWEEN

Andhra Bank Award Employees Union ... Petitioner

AND

The Asstt. General Manager,
Andhra Bank,
Zonal Office, West Godavari. ... Respondent

APPEARANCES :

For the Petitioner : A.V. Sambasiva Rao, Advocate.
For the Respondent : S.Udayachala Rao, Advocate.

AWARD

This is an industrial dispute referred by the Government of India in exercise of powers conferred under Section 10 of ID Act to adjudicate the dispute arised between Andhra Bank Award Employees Union and the management of Asstt. General Manager, Andhra Bank with the following schedule :—

SCHEDULE

"Whether the demand of Andhra Bank Award Employees Union for regularisation of services of Smt. K. Mahalakshmi, Sri K.Naga Babu, Smt. K.Venkata Lakshmi, Smt. N. Vijaya Lakshmi and Ms. K. Jayalakshmi working as a Part-time Sweepers under the Management of Assistant General Manager, Andhra Bank, Bhimavaram Zone is legal and or justified? If not, what relief the concerned Union is entitled ?"

2. The claim petition was filed on behalf of the workmen stating that the workmen Smt. K. Mahalakshmi working as part-time Sweeper since 1-7-1997 at Andhra Bank Ganapavaram and she was paid wages Rs. 20 per day. She submitted representation for absorption on 14-10-1998 to the Regional Manager. Similarly the workman Mr. K. Naga Babu was working since 1988 at Andhra Bank, Gollawanitippa branch as part time Sweeper and made a representation for regularisation on 20-2-1996 and subsequently K.Naga Babu represented before the management of Andhra Bank, Gollavanitippa on two occasions and the same was forwarded to Asstt. General Manager, Bhimavaram. It is further, submitted that the workman K.Venkata Lakshmi is working as part time Sweeper at Andhra Bank, Bhimavaram and also made representation for regularization on 10-1-2000. Similarly, the workman Smt. N.Vijayalaxmi was working as part time Sweeper since 1-11-1998 at Anadhra Bank, Palakollu temporarily and made a representation to the Asstt. General Manager, Bhimavaram on 18-1-2000 for regularization of services. Similarly, Ms. K. Jayalakshmi was working as part time Sweeper at Andhra Bank Kopparu branch and also made a representation on 12-1-2000 for regularization. It is further, submitted that there are no guidelines for filling up the part time Sweepers through the Employment Exchange. It is further, submitted that the said workmen were not appointed by any letter but they were engaged as part time Sweeper since long back and their representation for regularization was not considered and further contended that the action of the respondent for not regularization of services of workmen is illegal or justified.

3. The respondent filed the counter and denied the averments made in the petition and pleaded that the vacancies in the bank are to be invited to the local employment exchange and the recruitment is to be made by conducting interviews. The respondent has not disputed the engagement of the said workmen as a part time Sweepers and also representations made by the workmen. It is further, submitted that since the petitions were engaged temporarily, there is no question of issuing appointment letter and they were paid daily wages for sweeping bank and they were paid daily wages on day to day basis for sweeping the bank premises. It is further, submitted any regular appointment has to be done only by inviting application from the candidates sponsored by the employment exchange as per the guidelines governing the recruitment rules. It is further, submitted that the employment exchange (Compulsory Notification of Vacancies) Act, 1959 does not apply to the part time employment but the temporary workman has to be engaged as per the guidelines issued by the Government of India. It is further, submitted that the said workmen whose cases have been espoused by the Union are not sponsored by the employment exchange and their services cannot be regularized.

4. The petitioners/workmen filed their respective affidavits in support of their cases and got marked the documents as Ex.W1 to W6. Ex.W1 is the Xerox copy of representation of WW1. Ex.W2 is the Xerox copy of representation of WW2. Ex.W3 is the Xerox copy of representation of WW3. Ex.W4 is the Xerox copy of representation of WW4. Ex.W5 is the Xerox copy of representation of WW5. As against this evidence, the respondent filed the affidavit of K.Krishna Rao, Bank Officer working in Zonal office Eluru and got marked the documents as EX. M 1 which is the procedure for filling up the part time Sweepers.

5. It is not in dispute that the said workmen are working as part time Sweepers under the management since the dates mentioned in their applications. It is also not in dispute that the said petitioners were made representation before the management for regularization and the same was not considered on the ground that they are not eligible under the rules or guidelines governing the recruitment. The respondent filed affidavit that the engagement of the petitioners/workmen as part time Sweepers itself is illegal and the Branch Managers are not permitted to engage them temporarily and they were not sponsored by the employment exchange. However, he admitted in the cross examination that sponsorship from the employment exchange for engaging casual labour is not necessary. It is also not disputed that for engaging casual labour, there is no need for sponsorship of casual labour from the employment exchange. The rules regarding the filling up part time Sweepers discloses part time Sweepers on Rs.100 per day shall be filled through the employment exchange only. The said rules are for the recruitment and filling of the post of part time Sweepers. In the present case, the workmen are engaged by the respondent bank since long time and they are still continuing. The respondent claims that the very engagement of the petitioners/workmen is illegal but did not say that any action was taken against the Branch Manager who is permitting the engagement of the petitioners. It appears that the respondent bank is permitted the engagement of casual labour since it is advantageous to the management.

6. The Learned Counsel for the petitioner contended that since petitioners/workmen were working as part time Sweepers since long time temporarily, they are entitled for regularization. On the other hand, the Learned Counsel for the respondent contended that the petitioners are engaged temporarily for specific purpose and for specific period till the post of part time Sweepers are filled up by issuing notification calling for interviews. As such, the petitioners though working since long time are not entitled for regularisation and relied upon apex Court Judgement.

7. The petitioners/workmen who were working as temporary part time Sweepers cannot claim as a matter of right for regularization. The post of part time Sweepers has to be recruited by issuing notification and calling for interviews. The petitioners are at liberty to apply for the same and get regularization. In view of the ruling of the Apex Court, the petitioners who are working since long time, cannot claim for regularization. It was held in A.P. 2006 (1) Decisions Today (SCF) 493 Secretary, State of Karnataka & Others Vs. Umadevi & Others. It was observed in para 34 & 38 as follows :—

Para 34 :— "Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme or public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to present regular recruitment at the instance of temporary employees whose period of employment has come to an end or of ad hoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of India, should not ordinarily issue directions for absorption, regularisation, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the Judgement, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates".

Para 38 : "When a person enters a temporary employment or gets engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual, or casual employees. It cannot also be held that the state has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post."

8. In view of the said ruling, the petitioners who are only working as temporary part time Sweepers under the respondent/management cannot claim right for regularization of their services. It is directed to the respondent to consider the names of the said workmen in the event of issuing notification for filling up the post of part time Sweepers without insisting sponsorship from the employment exchange by relaxing their age. Accordingly, the award is passed.

Disctated to Sri P.kanaka Raju, LDC transcribed by him correct and pronounced in the open Court by me on this the 13th day of September, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: K. Nagababu	MW1: K. Krishna Rao
WW2 : K. Maha Laxmi	
WW3 : K. Jaya Laxmi	
WW4 : N.Vijaya Laxmi	
WW5 : K. Venkata Laxmi	

Documents marked for the Petitioner/Workman

Ex.W1: Xerox copy of representation of WW I

Ex.W2: Xerox copy of representation of WW2

Ex.W3: Xerox copy of representation of WW3

Ex.W4: Xerox copy of representation of WW4

Ex.W5: Xerox copy of representation of WW5.

Documents marked for the Respondent

Ex.M1: A circular dated 13-3-1989 regarding procedure for filling up of the vacancies of part time Sweepers.

नई दिल्ली, 28 सितम्बर, 2006

का.आ. 4165.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. हिन्दुस्तान शिपयार्ड लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 126/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2006 को प्राप्त हुआ था।

[सं. एल-34025/1/2006-आई आर(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th September, 2006

S.O. 4165.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 126/2004) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Disputes between the employers in relation to the management of M/s. Hindustan Shipyard Limited and their workman, which was received by the Central Government on 21-9-2006.

[No. L-34025/1/2006-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, HYDERABAD

PRESENT

SHRI T. RAMACHANDRA REDDY, Presiding Officer

Dated Ist day of August, 2006

Industrial Dispute LC No.126/2004

BETWEEN

A.A.Earnest .....Petitioner

AND

1. The Chairman & Managing Director, M/s Hindusthan Shipyard Ltd., Visakhapatnam.
2. The General Manager, (Production & Corporate Development), Hindusthan Shipyard Limited, Visakhapatnam. ... Respondents

APPEARANCES

For the Petitioner : S. Rama Rao, Advocate.

For the Respondents : M/s. Sai Baba & Srinivas, Advocates.

AWARD

This is a petition filed by the petitioner Sri A.A. Earnest against the respondents No.1 & 2 under 2 A(2) of ID Act seeking the relief to set aside the dismissal order dated 27-2-1993 and for reinstatement with continuity of service with back wages. It was originally filed on the file of Industrial Tribunal cum Labour Court at Visakhapatnam vide ID. No. 56/2002 and the same was transferred to this Tribunal for adjudications.

2. It is submitted by the petitioner that he was a permanent employee of the respondent/management and working as Electrical Welder Trade Man-II. He was appointed as a Electrical Welder on 7-2-1976 and was promoted as Electrical Welder Trade Man Grade-II in 1979 and Electrical Welder Trade Man Grade-I in 1988. He was elected as a committee member of the Union General Counsel in the year 1979 and continued upto 1983. During that period, he espousing the cause of the workman. As such, the respondent/management started victimization.

3. It is further, submitted that the respondent engaged the services of the private security agency by name Vigilant Security Services hereinafter referred as M/s. VSS for the purpose of keeping security. They formed into a Trade Union known as VSS private security Agencies and got registered in March, 1991 to protect the interests of the workmen against exploitation. The members of the said Union elected the petitioner/workman as its President. The respondent/management with false allegation, issued a charge memo dated 7-6-1991 with the following allegations:— (I) That on 10-5-1991 in E-I shift Sri A. A. Earnest (Workman), Badge number 07-5-9809 obtained permission for one hour from 08.00 Hrs. to 09.00 hrs. from the department and went to the OPF main gate along with 4 other Ex.VSS Security Guards (colony), gathered 15 other VSS Security Guards and approached the Security Officer (OPF) and asked the whereabouts of Sri B.S. Rao, Asst., Security officer of VSS,. Alleging that there had been an incident of beating the Security Guard on 8-5-1991 in 'C' shift white he was found sleeping ; suspension vide memo dated 13/15-2-1992 pending disposal of the criminal case registered against the petitioner/workman by the police in furtherance of this memo and another memo NV case number 386 dated 5-5-1992 was issued with the following allegations. He was also charge sheeted with the following allegations That Sri A.A. "Earnest (workman) B.No. 07-05-9809 Electrical Welder TM-I was arrested by the police on 4-2-1992 remanded to judicial custody on 5-2-1992 and was in remand to Central jail from 5-2-92 (10.00 a.m.) to 7-2-92 (4.30 p.m.) and was released on conditional bail, thereafter, in connection with a criminal case registered against him under Cr.No.17/92, U/Sec.147, 341, 323, 506 of IPC. R/w Sec. 120 'B' IPC and 7(1) Crl. Amendment Act and that he (workman) did not inform the H.S.L. Management of his (workman) involvement in the said Criminal case. arrest by the police immediately thereafter."

CHARGES ARE:

"His above act constitutes grave misconduct under clauses 30(1) and (ZO) of the Company's standing orders."

The petitioner has submitted his explanation for the said charges on 22-5-1992 stating that when a peaceful demonstration was authorized on 4-2-1992 to protect

against illegal termination of private security guards by the HSL management. The respondent/management instigated the Malkapuram Police and got arrested 68 guards including the petitioner/workman and remanded to judicial custody.

4. It is further, submitted that the respondent/ management ordered for an enquiry into the charge memo dated 13-2-1992 and NV case No. 386 dated (ii) That about 08.10 hrs. on the same day i.e. on 10-5-1991 Sri A. A. Earnest (Workan) went along with 11 security guards ofVSS and threatened him with dire consequences stating that he reported on security guards sleeping on duty and that he (Sri P. M. Mani) should be careful and if he (A. A.Earnest, workman) thinks, Sri P. M. Mani would not go beyond pile rack, and thereby Sri A.A. Earnest created a scene at the OPF main gate warranting Law & Order problem".

> "That Sri A.A.Earnest (workman) B.No.07-05-9809 Electrical Welder TM-I was arrested by the police on 4-2-1992 remanded to judicial custody on 5-2-1992 and was in remand in Central jail from 5-2-92 (10.00 a.m.) to 7-2-92 (4.30 p.m.) and was released on conditional bail, thereafter, in connection with a criminal case registered against him under Cr. No. 17/92, U/Sec.147, 341, 323, 506 of IPC. R/w Sec. 120 'B' IPC and 7(1) Crl. Amendment Act and that he (workman) did not inform the H.S.L. Management of his (workman) involvement in the said Criminal case. Arrest by the police immediately thereafter."

CHARGES ARE:

> "His above act constitutes grave misconduct under clauses 30(1) and (ZO) of the Company's standing orders."

The petitioner/workman has submitted his explanation dated 1-7-1991 denying the averments made in the chargesheet and pleaded that no such incident took place and that it was routine and usual for the Union leaders to discuss with the management of VSS and the Respondent being the principal employer. Subsequently, the petitioner/workman was placed under 5-5-1992 and found that the first article of charge i.e. misconduct allegedly committed by the workman under clause 30 of the company's standing orders is proved and the second article of charge i.e. misconduct allegedly committed by the workman under clause 30 (ZO) of company's standing orders is not proved. The arrest by the police and sending to judicial custody are based only on the report of the Malkapuram Police and the facts and circumstances leading to arrest was not considered by the Enquiry Officer.

5. It is further, submitted that the respondent/ management was also ordered for an enquiry by the Sr.Personnel Officer to enquire into the charge memo dated 14-1-1992 that the workman after taking one and half hours permission on loss of pay from 10.00 a.m to 11.30 a.m in E-I shift on 1-1-1992 went to OPF at 10.00 a.m and organized a dharna and slogans shouting by the VSS Guards and questioned the authority of the Sr. Security Officer and created law and order problem etc. and the said charges were not proved as per the findings of the Enquiry Officer Sri Venkateswara Rao.

6. It is further, submitted that the impugned order dated 27-2-1993 is not a speaking order and the Enquiry Officer failed to discuss the evidence in support of the authorities and failed to give reasons.

7. It is further, submitted that the criminal case filed against the petitioner/workman in CC No.36 of 1993 was acquitted.

8. The respondent filed their counter and denied the averments made in the petition and contended that on 10-5-1991 in E- I shift, the petitioner/workman obtained permission for one hour 8 a.m. to 9 p.m. from the department and went to the OPF main gate along with four others. Ex. VSS Security Guards gathered 15 others VSS security guards and approached the Security Officer and asked the whereabouts of Sr. B. S. Rao Asst.Security Officer of VSS alleging that there had been an incident of beating the Security Guard on 8-5-1991 in C shift while he was found sleeping. The petitioner/workman went to Smt.P.M.Phani Security Supervisor of VSS and threatened him with dire consequences alleging that he reported that guards are sleeping on duty. It is further, submitted that an appeal filed by the petitioner against the dismissal order was rejected after considering entire records and findings of the Enquiry Officer. It is further, submitted that M/s. Vigilent Security Service was awarded contract by the first respondent organization through open tender to look after the security services of OPF. The respondent have not recognized the Union name Visakha Private Security Sibbandi Sangham as they are the employees of the contractor. It is further, submitted that on receiving a report from the Sub-Inspector of police, Malkapuram dated 8-2-1992 stating that on 4-2-1992 at about 07.00 hrs, about 70 Visakha Private Security Union Staff committed rioting and criminal intimidation at OPF yard of the respondent premises at the instigation of the petitioner/workman and T. George Victor, P. Chowdeswara Rao and D. Satya Rao, Security Guards of the Investigation Security Services were beaten. The said case was registered on a complaint given by the T. George Victor in Cr. No. 17/92 and the petitioner/ workman was arrested on 14-2-1999 and remanded to judicial custody on the next day and he was in the Central Jail from 5-2-1992 to 7-2-1992 and that he was released on conditional bail and requested to take departmental action. The respondent/management has suspended the workmen w.e.f 17-2-1992 with a memo dated 13-2-1992 pending disposal of the criminal case and also he was charge sheeted with a memo number NV case number 386 dated 5-5-1992 for not informing the HSL management of his involvement in the said criminal case/arrest by the police which constituted grave misconducts under clauses 30(1) and (ZO) of company's standing orders. During the enquiry, the petitioner/workman was found guilty of said charge and accordingly he was dismissed taking into consideration of his previous record. It is further, submitted that the

petitioner disorderly behaviour and interference with security staff on duty and created law and order situation was serious in nature and warranted severe punishment.

9. It is further, submitted that the petitioner/workman was awarded punishment of reduction in rank from Electrical Welder TM-I to Electrical Welder TM-II for proven misconduct of organized Dharna and slogans shouting by Ex- VSS security guards at OPF for creating law and order problem and also threatened the Sr. Security Officer. The dismissal order dated 27-2-1993 was issued on proving misconduct pertaining to the incident date 10-5-1991. The punishment imposed is consumarate with the gravity of the charges. It is further, submitted that the management no longer repose confidence in the petitioner/workman and having lost confidence it does not expect that the petitioner if reinstated into service, would work properly with discipline. Further, the petitioner was dismissed long back in the year 1993 and if reinstated into service, it will lead to unrest causing indiscipline among workers.

10. It is not in dispute that the petitioner/workman was an employee of the respondent organization HSL, VSP as Electrical Welder TM- II in Welding department on the date of the dismissal from the service w.e.f. 27-2-1993. He was initially appointed on 7-2-1976 and got promotion from time to time. He was elected as a committee member of the Trade Union General Counsel in 1979 and continued till 1993. He was charge sheeted during the year 1984 along with others alleging that he agitated in the respondent premises causing disruption of work for which the petitioner/workman was inflicted the punishment of stoppage of three increments.

11. It is also not in dispute that the respondent engaged the services of private security agency by name VSS for watch keeping and security jobs. The workmen of the said VSS has formed an Union and the petitioner/ workman was elected as a President. The Union formed by the said agency was not recognized by the respondent as they are not concerned. The petitioner/workman was issued a charge memo dated 7-6-1991 for which an explanation was submitted while the matter is pending. The second charge memo was issued on 13/15-2-1992 placing him under suspension and in furtherance of another memo from the police bearing NV case No. 386 dated 5-5-1992 was issued. The allegation that the petitioner/workman did not inform his involvement in the criminal case and arrest and amended to judicial custody. The petitioner/workman has submitted his explanation to the said charge memo but an enquiry was ordered by appointing an Enquiry Officer and the Enquiry Officer found the charge was proved. The Disciplinary Authority found that the charges are proved and inflicted the punishment of reduction in rank from Electrical Welder TM-I to TM-II w.e.f. 1-2-1993.

12. The impugned order of dismissal is passed in respect of the enquiry conducted by R. V. Krishna Rao for the incident that took place on 10-5-1991 by issuing a charge memo dated 7-6-1991.

13. It was held by the Tribunal that the domestic enquiry conducted by the respondent/management is valid and the Enquiry Officer has observed the principles of natural justice while conducting enquiry.

14. The Enquiry Officer has examined two witnesses M. S. Raju, Security Officer as MWI and Appa Rao, Sr.Security Officer as MW 2.

15. The petitioner/workman has taken the plea in his explanation that he is the honorary Present of the private security guards working under VSS and he was espousing the cause of the workers against the management of VSS. As such, he was involved in the case.

16. It is observed by the Enquiry Officer that the incident alleged to have been taken place at the gate was not disputed by the petitioner/workman. The witness P. M. Phani Supervisor of VSS has stated that the petitioner/ workman was shouted on him and threatened him with dire consequences. The incident has taken place in the premises of respondent company and the witness N.S. Raju has stated that the extent of law and order problem created by the workman. The Enquiry Officer found that the acts of the petitioner/workman leaving the work spot and leading a crowed of VSS security guards to OPF main gate during the working hours on 10-5-1991 interrfering with the work of the management of VSS which has got connection with the business of the respondent and also threatened security supervisor which amounts to misconduct. The Enquiry Officer as well as the Disciplinary Authority has given reasons in their conclusions. The appeal preferred by the petitioner was also rejected giving reasons. The conclusions arrived by the Enquiry Officer as well as the Disciplinary Authority are based on the evidence on record. It should be noted that the strict rules of evidence are not applicable to the domestic enquiry. The Enquiry Officer has analyzed the evidence on record giving reasons. The Disciplinary Authority has taken the view since the incident has taken place in the premises of the respondent company and the petitioner has lead the security guards for agitation and threatened the security personnel with dire consequences amounts to misconduct. The incident pertains to 4-2-1992 and the punishment inflicted for that incident is not relevant in the present case. The Disciplinary Authority has taken the previous conduct of the petitioner/workman while imposing the punishment.

17. The petitioner/workman has filed two W.P.s. against his reversion and another for dismissal from service and withdrawn the same with a liberty to file proper petition before the Industrial Tribunal. It is contended by the Learned Counsel and the petitioner that the incident which is the subject matter of the chargesheet is not connected with the management and the dispute is with VSS, who is a contractor of the management. As such, the petitioner cannot be punished. It should be noted that the incident has taken place in the premises of the respondent/ management wherein the petitioner alleged to have created law and order problem and threatened security supervisors of VSS and the petitioner held Dharna without taking

permission to leave his seat. In view of the material on record and findings arrived at by the Enquiry Officer and Disciplinary Authority, I am satisfied that the respondent/ management has rightly held that the charge against the petitioner/workman is proved.

18. The next and important question that arises is whether the capital punishment of dismissal is appropriate and commensurate with the gravity of the charges. This Tribunal has got power or discretion under section 11 (A) of ID Act to interfere with the punishment under findings that the punishment is disproportionate to the gravity of misconduct so as to disturb the conscience of this Tribunal.

19. In the present case, it appears that the petitioner/ workman was punished for the charge of leaving a crowd of VSS security guards to the main gate during the working hours, and interfering with the work of the management of VSS and threatened the security supervisors on duty with dire consequences which constitutes misconduct under clause 30(J) (Q) (W) of the company's standing orders. On account of the act of the petitioner/workman, there is a riotous and disorderly behaviour in the premises of the respondent and disturbance to the work of other workers.

20. It is not the case of the respondent that the petitioner/workman cannot become a honorary President of the private security guards pertains to VSS when the petitioner was holding the office bearer of the Trade Union. He is at liberty to espousing the cause of the workmen against VSS. It should be noted that the incident for which the petitioner was reverted to lower rank pertains to the incident that took place on 4-2-1992 which is subsequent to the incident for which he was awarded capital punishment of dismissal. The punishment imposed by the management with reference to the charge is shockingly disproportionate to the gravity of the misconduct.

21. The Learned Counsel for the respondent vehemently contended that the respondent/management has lost the confidence of the petitioner/workman and he used his position by involving in the riotous and Dharnas against the contractor of the respondent and further it is undesirable to the management to retain him in services in the event of holding that the dismissal is invalid and further contended that it amounts to forcing the management to take him into services and further contended that the petitioner is out of service last several years since 1993 and he is not in position to work properly and his reinstatement may lead to unrest causing indiscipline among the workers.

22. The respondent relied on the ruling of Hon'ble High Court S. Chandraiah V/s. P.O., Additional Industrial Tribunal-cum-Labour Court, A.P., Hyderabad and another reported 2005 (5 ALD 360) it was held in para 18 and 19.

Para-1 8:—It is well settled that the plea of the employer of his loss of confidence in the concerned employee, who had misutilized his position rendering it undesirable to retain him in service, even in cases where termination or removal from service is held to be invalid, would militate against the award of reinstatement and would amount to forcing the employee on an unwilling employer. The Supreme Court in several cases has accepted the plea of the employer, of loss of confidence in the workman, and in lieu of reinstatement has directed payment of wages for a certain period.

Para 19:—"It has been held that where an employer loses confidence in his employee, particularly in respect of a person discharging an office of trust and confidence there can be no justification for directing his reinstatement (Francis Klein & Co. (P) Ltd. *Vs.* Workmen, Vol.48 (1971) FJR 183 (SC). While the normal rule is that in cases of invalid orders of dismissal industrial adjudication would direct I/reinstatement of a dismissed employee, nevertheless there would be cases where it would not be expedient to adopt such a course. Where for instance the dismissed employee held a position of confidence and trust and the employee had lost confidence in the concerned employee, reinstatement is not fair to either party (Ruby General Insurance Co. Ltd. *Vs.* P. P. Chopra, Vol 48 (1971) FJR 286 (SC). An employee who belives of suspects that his employee, particularly one holding a position of confidence, has betrayed the confidence, can, if the conditions and terms of employment permit, terminate his employment and discharge him without any stigma attaching to the discharge. But, such belief or suspicion of the employee should not be a mere whim or fancy. It should be *bona fide* and reasonable. It must rest on some tangible basis and the power has to be exercised by the employer objectively, in good faith with due care and prudence (L.Michel *Vs.* Johnson Pumps Ltd., AIR 1975 SC 661).

23. The Petitioner was in service in the respondent organization from 7-2-1976 till he was dismissed on 27-2-1993. His last drawn wages of the petitioner is Rs.3,030 p.m. and it appears that the petitioner's age is about 51 years. In view of the circumstances, it is just and proper to award a certain amount of compensation apart from gratuity, leave salary and other entitled terminal benefits.

24. In view of the circumstances, it is just and proper to award compensation of Rs.2,00,000 (Rupees Two lakhs only) to the petitioner apart from gratuity, leave salary and other terminal benefits if any and direct the respondent to pay within three months from the date of publication of the award. Accordingly, the award is passed.

Dictated to Sri P. Kanaka Raju, LDC transcribed by him correct and pronounced in the open Court by me on this the Ist day of August, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner/Workman

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 28 सितम्बर, 2006

का.आ. 4166.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बैंगलोर के पंचाट (संदर्भ संख्या 38/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-9-2006 को प्राप्त हुआ था।

[सं. एल-12011/39/2000-आई. आर.(बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 28th September, 2006

S.O. 4166.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 38/2000) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workman, which was received by the Central Government on 27-9-2006.

[No. L-12011/39/2000-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated the, 15th September, 2006

PRESENT:

SHRI A. R. SIDDIQUI, Presiding Officer

C.R. No. 38/2000

I PARTY

The General Secretary,
Syndicate Bank Staff Association,
Anand Plaza, 2nd Floor, Near Anand Rao Circle,
Bangalore-560009
Karnataka State

II PARTY

The General Manager (P),
Syndicate Bank, Head Office,
Manipal-576119,
Karnataka State.

APPEARANCES

1st Party	:	Shri B. M. Joshi, Advocate.
2nd Party	:	Shri Ramesh Upadhyaya, Advocate.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order No. L-12011/39/2000/IR (B-II) dated 12th June, 2000 for adjudication on the following schedule:

SCHEDULE

"Whether the punishment imposed on Smt. T. Aruna Pai, Clerk by reducing her basic pay by two stages by the management of Syndicate Bank, Bangalore is in order? If not, what relief the workman is entitled to ?"

2. The first party workman in her claim statement, while challenging, the enquiry proceedings as conducted in violation of principles of natural justice also, challenged the enquiry findings holding her guilty of the charges of misconduct on the ground that they were perverse as the enquiry officer did not apply his mind properly to the facts and circumstances of the case and that he did not appreciate and evaluate the evidence properly and his report is biased in holding her guilty of the charges. He contended that all the 3 listed witnesses of the management were not examined who signed/initiated various slips and registers connected with the charges and that enquiry officer also confirmed in his report that there was a practice of detaining cheques for a day or two at the branch the first party was working. She also contended that she is a Clerk working under the supervision, control and guidance of her superiors and she has been wrongly implicated with the ulterior motive to victimize her. She also contended that the impugned punishment order reducing her basic pay by two stages is unjust, illegal and disproportionate to the alleged gravity of the misconduct committed by her.

3. Management by its Counter Statement contended that enquiry against the first party was conducted in accordance with the principles of natural justice and she participated in the enquiry proceedings taking the assistance of DR, cross-examined the management witness and also gave her own statement and on the conclusion of the enquiry submitted her brief and therefore, it cannot be said that enquiry was against the principles of natural justice. The management also contended that the charges leveled against the first party have been very much proved in the oral and documentary evidence pressed into service by the management and that enquiry findings are supported by sufficient and legal evidence and therefore, it cannot be said that they are perverse. The management contended that on the proof of the charges against the first party, infact, the Disciplinary Authority had dismissed her from service but in appeal lenient view was taken and a minor punishment reducing her basic pay by two stages was imposed and therefore, impugned punishment order needs no interference.

4. Keeping in view the respective contentions of the parties with regard to the validity, fairness or otherwise of the enquiry proceedings, question of Domestic Enquiry was taken up in the first instance. During the course of trial on the said question the management examined the enquiry officer as MW1 and got marked 9 documents at Ex. M1 to M9. First party also examined herself by filing an affidavit and after hearing the learned counsels for the respective parties, this tribunal by order dated 21-4-2006 recorded a finding to effect that enquiry held against the first party by the second party is fair and proper. Thereupon, matter was posted for hearing on the point of perversity of the findings and the quantum of punishment, learned counsel for the first party filed his written argument and whereas, learned counsel for the management advanced his oral arguments.

5. After having gone through the records, I am of the opinion that charges of misconduct levelled against the first party have been proved with regard to two cheques, one cheque bearing No. 477630 dated 14-1-1994 and a cheque bearing No. 117275 dated 26-11-1993 and as far as cheque No. 117273 dated 23-11-1993 is concerned charge remains to be proved.

6. As argued for the management, the charges levelled against the first party with regard to the aforesaid two cheques which have been taken to be proved by the enquiry officer, there was sufficient and legal evidence in the oral testimony of MW1, the then Branch Manager and as many as 43 documents were marked during the course of enquiry. In order to appreciate the aforesaid arguments of learned counsel, it appears to me worthwhile to bring on record the very reasonings and the observations of the enquiry officer found on pages 59 to 68 running as under :—

Analysis of evidence and findings.

Both the parties have perspicuously diligently and effectively placed their arguments and counter arguments before me. I have elaborately dealt with the evidence, both oral and documentary, adduced before me herein above, except what has been supplemented by the Defence in the earlier para of the written brief as in my opinion, those would be Gratis Dictum and not obiter Dicta.

As an enquiry officer, particularly in a case such as this one, extension of principle of Judex Acquitatem Semper Spectare Debot has got relevance and I would certainly be within my jurisdiction if I extend the scope to analyse the arguments relevant to the charge sheet led by the Defence through their written brief, no matter as to how qualitatively their argument is relevant to the issue concerned.

Both the defence and the management representatives, albeit engaged in a long wordy duel at times, displayed remarkable restraint and endurance while participating in the enquiry, which spanned between the period 10-1-1995 and 1-6-1995.

The defence, I must admit, have diligently laboured to prove the innocence of Smt. Aruna Pai, the CSE. In their anxiety to succeed, quite naturally, they argues on certain points which of course, in my view, is not in good taste. Notwithstanding this opinion/remarks of mine, I must say that, the efforts put in by the Defence to defend Smt. Aruna Pai, is really commendable and praiseworthy.

In their written brief, the defence has been elaborative and vocal to paint Shri M.S. Nayak, management witnesses, as a person who has been taken extra interest to cover up the misdeeds of branch officials and opined further that, to succeed in his efforts, he tried to malign Mrs. Aruna Pai, so that the branch officials would get retrieve. The Defence is, of course, entitled to have their views and they are independent to express their opinion. But, in a departmental enquiry, this independence has to be enjoyed with restraint.

Coming back to the issue, I found myself in a dilemma as to whether I should accept the contention of the management witness as well as the Defence witness in toto or to the extent it helps me to arrive at my findings.

The management witness, I observe, was clear in his thoughts and fairly articulate while deposing before me during the enquiry and has duly corroborated his deposition with the documents, that is 43 in numbers, produced by the management and has chronologically described while narrating the circumstances that led to his investigation, further investigation and outcome of his investigation.

The cross-examination of Shri Nayak, MW1 by the Defence is not exactly revealing, as I am of the opinion that the MW1, Shri Nayak was quite protective while he was questioned about the role played by the branch officials. Even while answering the last question the defence put to him at Sl. No. 193, although he agreed interalia that, as per the Manual of Instructions. Vol. IV, Clause 21.11, the manager of the branch should exercise proper care and vigilance in respect of return of cheques of customers, he went on to quote from page 565 of the same edition of the Manual of Instructions which says, "A staff member working under the overall control of the branch manager has a responsibility to report to the Head Office regarding the departure from the rules and regulations of the bank which are considered as detrimental to the interest of the Bank and the defects in the bank's security of which, head office might not be aware. How many have ventured this odyssey. This is non sequitur. Notwithstanding this position, I wish to come on record that I do not want to deliberate on the role, responsibilities/duties of the branch officials, as the same is not within my jurisdiction as an enquiry officer.

The scope of my enquiry is limited to the findings as to whether the charges levelled against Smt. Pai by the Disciplinary authority vide charge sheet No. CCS/BNG/94/82 dated 27-7-1994 is proved or not and nothing beyond that.

Regarding the ratification/endorsement of the branch officials on the instrument, I do not know as to in what way it is going to mitigate the charge. The exhibits produced by the management are expressive enough to suggest that Smt. Pai was the person responsible to detain/cause detention of instruments belonging to Shri Satyanaryana Raju &

Associates without authority and has resorted to tampering of records and thereby facilitated Shri Satyanarayana Raju to derive undue pecuniary advantage.

The defence wanted to establish that, a practice is prevalent at Gangenahalli branch to detain/over detain the cheques supposed to be returned in the clearing.

The defence also tried to maintain that, such practice of detention is normally existing in various branches also.

The conclusions are to be based on the preponderance of probabilities and circumstances. The totally of the circumstances have to be considered as evidence led in common. The aspect of Mens-rea, albeit, does not have a place in departmental enquiry. Still, to arrive at a conclusion, the enquiry officer has to take this factor into consideration. Director evidence or proof beyond reasonable doubt are not required in a departmental enquiry, as indeed, such a proof/evidence is difficult to procure in these proceedings. Such a standard of proof is required only in criminal cases.

The evidence led before me are not only suggestive but also clearly indicate that, Smt. Pai not only detained the cheques, but also tampered the documents to mislead the Investigating official.

Not withstanding the above position, I cannot rule out in toto, the defence contentions that the practice to detain the clearing cheques for a day or two was very much prevalent in Gangenahalli branch. Defence, to a considerable extent, established that the branch officials also approved to this arrangement and quite liberally have endorsed/ lent their signatures/initials. This can be termed as Authentication of documents/instruments.

However, it does not exactly help Mrs. Pai's claim to detain the cheques. She is not authorized for the same. In fact, to the best of my knowledge, nobody is authorized to detain an instrument. She should have been honest to reveal the facts before the concerned officials. Regarding signature/initials of the branch officials, I opine that it would not have been difficult for a fellow employee to obtain a signature/initial from her officer colleagues and I am therefore, of the considered opinion that, she should not have taken advantage of this trust and faith.

The defence has accentuated on the aspect of "Vicarious liability, i.e. apportionment of responsibilities. It is true that, the Defence has brought certain points to light which are suggestive enough that the branch officials have erred in lending their signatures/initials on the instruments. It has also come on record that, if they would have been vigilant, this case would not have come up. It is also on record that, the practice even if followed assuming to an extinguishing extent, is having a pernicious effect. But all these factors do not justify Smt. Pai's action in detaining the cheques.

It is on record that, the second cheque i.e. cheque No. 117275 was received on 28-11-1993, which was a Sunday, i.e. half working day for the branch. The next day was 29-11-1993 i.e. weekly holiday for the branch. The cheque was finally debited to the party's account on 30-11-1993 after the party provided with funds for the same and the CCR entry was got squared up. Overdue interest of Rs. 35 was collected by debiting to the party's current account.

I am inclined to consider the aspect of time/ date of receipt and the time/date of debiting to the party's account, there was an intervening holiday. That being the position, I do not wish to attribute any motive on the part of Smt. Aruna Pai to detain the cheque. Moreso, overdue interest of Rs. 35 was also collected. I am rather inclined to extend benefit of doubt to Smt. Aruna Pai and exonerate her from this lapse.

Regarding the cheque No. 117273 dated 23-11-1993 for Rs. 50000 which was received at Ganganahalli branch on 24-11-1993, I observe that, the cheque was returned only on 26-11-1993 as the balance on the date of receipt i.e. 24-11-1993 was only Rs. 460. Here, the cheque was detained on 25-11-1993 and was returned only on 26-11-1993. The detention, even if it was for a day, in the instant case, to my mind is deliberately done. The oral evidence of MW1 is duly corroborated by the documentary evidence. The defence, of course, argued that there exists a practice at Gangenhallis branch to detain cheque for a day or two, to accommodate the parties. This position of course, is not substantial enough to exonerate Smt. Aruna Pai.

Regarding the first cheque mentioned in the chargesheet, i.e. Cheque No. 477630 dated 14-1-1994 for Rs. 30,000 issued by Shri M. Satyanarayana Raju, this cheque was received at Gangenahalli branch through II Clearing on 21-1-1994. On 22-1-1994, this cheque should have been passed if balance was there. However, since the balance in the SB 10376 was only Rs. 1001 the cheque should have been returned. But, the cheque was not returned and was debited by Smt. Auna Pai to clearing cheques returned account on 22-1-1994 mentioning as "CAO DD for credit of SB account."

Here, the role played by Smt. Aruna Pai borders on irregularity. She has prepared a debit slip for Rs. 30,000/-

on 25-1-1994 to CCR account and got the same passed with particulars as "one cheque of SB returned". On that day, the CCR account was credited with an amount of Rs. 30,000 mentioning the particulars as "CAO DD". An instrument of a similar amount i.e. Rs. 30,000 is indicated in Inward Clearing and in Outward Clearing sub day book, a change in figure under Item No.1 from Rs. 52,000 to Rs. 22,000 was made at the end of a figure of Rs. 30,000/- was added with particulars as "SB CAO DD". On 27-1-1994, she prepared a credit slip for Rs. 20,000/- for credit of CCR account and in clearing outward register on 28-1-1994, a cheque for Rs. 30,000 was mentioned as from Indian Overseas bank. When the said cheque was received back, ' the amount was again debited to CCR account on 30-1-1994 by Smt. Pai. On 1-2-1994, a credit entry for Rs. 30,000/- was effected in CCR account but the cheque was again returned to Indian Overseas Bank. On the next day, i.e. 2-2-1994, when the cheque was again received back, she altered the amount appearing in the debit slip already prepared towards CCR account from Rs. 40490/- to Rs. 34090. On 3-2-1994, she altered the CCR credit slip figure and inter-branch CAO debit slip figure by Rs. 30,000 to square up on the debit made by her on 2-2-1994.

However, on 4-2-1994, a Returning Memo was prepared for return of the said cheque to the original presentor, i.e. Indian Bank. However, on 5-2-1994 before the cheques were returned, the SB holder, Shri M. Satyanarayana Raju remitted Rs.30,000 and the cheque was finally debited to the account on that day i.e. 5-2-1994. In this instant case, the involvement of Smt. Aruna Pai in the said transactions was quite apparent.

It is a fact that, the cheque was returned to Indian Overseas Bank instead of Indian Bank, the original Presenter. I cannot term it as a mistake nor can I term it as human error. If it would have been sent on the same day i.e. on 22-1-1994 even to the wrong bank, i.e. Indian Overseas Bank, I would have probably extended some credibility to the defence version. However, the cheque was detained for a considerable period and then sent to a wrong bank. Therefore, the intention on the part of Smt. Aruna Pai to detain the cheque in order to accommodate the party is very clear and apparent. The tempering/ alteration of records to suppress this action are the natural outcome. Here I cannot relegate myself to a position to accept the version of the defence. The modus operandi adopted by Smt. Aruna Pai is not a natural phenomena expected from a seasoned banker. The defence, at length argued and also tried to establish that such detention and sending the instrument to a wrong bank were at the instance of the manager and/or officers. True that, they have appended their signatures on the related documents. True, that, this appendation of signature confirms to some extent, the defence stand that the branch management is aware of such detentions. This position does not entirely absolve Smt. Aruna Pai for her responsibility and duties. In any organization, certain amount of confidence and trust plays a dominant role to govern the relationship between the managerial staff and the workmen. While I entirely accept the contention of the defence that, Smt. Aruna Pai was working under the supervision, guidance and control of the Manager and officers, but, in a position as explained hereinabove, one will definitely have doubt that Smt. Pai has induced the Manager/officer to put their signature/initials.

Of course, the defence produced certain documents before me such as appreciation letters from the Zonal office/Divisional Office and clippings from "Giant to prove that Smt. Aruna Pai is a senior workmen employee who has canvassed considerable deposits for the Bank. This point is not a mitigating factor to decide on the guilt. Moreso, as an enquiry officer, I can consider this point only as an extraneous factor which can only be relied/ considered by the competent authority.

I have, in detail, perused the connected papers and am convinced that, the instrument was detained by Smt. Aruna Pai. However, whether the same was detained with authority or without authority, is a debatable point, as all the connected papers were duly signed initialed by the concerned officers.

However, the evidence laid before me are suggestive that the tampering/alternation of the records to suppress this was done by Smt. Aruna Pai. I, therefore, taking this analogy, am of the opinion that, the instrument was detained without authority. Otherwise, she would not have cared to tamper/alter the documents to suppress her action. Based on the evidence adduced before me, both oral as well as documentary, I hereby come to the conclusion that the charge leveled against Smt. Aruna Pai by the Disciplinary Authority *vide* charge sheet No. CCS/BNG/95/82 dated 27-7-1995 is proved."

7. Therefore, from the reading of the aforesaid passage in the report submitted by the enquiry officer, by no stretch of imagination it can be said that findings given by him holding the workman guilty of the charges in respect to the above said two cheques suffered from any perversity or arbitrariness. It can be very well seen from the reasonings assigned by the enquiry officer that first party did commit the misconduct in detaining the above said two cheques with the bank and in making certain alterations and tampering of the records enabling one Shri Sathyanarayana Raju, the customer of the bank to derive undue pecuniary advantage. The only defence of the first party is that she had acted under the supervision, control and guidance of her superiors and therefore, she cannot be responsible for the misconduct alleged against her. It was well observed by the enquiry officer that by taking such a defence the first party cannot shirk her responsibility throwing the entire blame to her superiors. She herself being a very senior official of the bank dealing the cash transactions, was supposed to be very much diligent, honest and prompt in discharging her duties particularly on the receipt of the cheques from customers concerned and sending them for clearing purpose. Though the learned counsel for the first party submitted his written arguments spreading over more than 5 pages but was not in a position to convince this tribunal as to why and how the findings of the enquiry officer suffered from perversity. It is neither a case of 'no evidence' nor a case of 'no sufficient and legal evidence' or that the enquiry officer had relied upon certain extraneous and hearsay evidence in coming to the conclusion that first party committed the misconduct alleged against her. As noted above, findings of the enquiry officer are very much supported by the oral testimony of the then

branch manager, the most competent witness to speak to the facts involved in the present case. His testimony as could be read from the findings has been very much corroborated by as many as 43 documents, genuineness of he could not be disputed by the first party, they being maintained in the usual course of business of the bank. Therefore, in the light of the above, I am not inclined to hold that enquiry findings suffered from perversity.

8. Now coming to the quantum of the punishment, as seen above, the disciplinary authority imposed the punishment of dismissal against the Ist party and when the matter was taken up in the appeal punishment of dismissal was replaced by reducing her basic pay by two stages. However, keeping in view the fact that the first party is a very senior and experienced staff of the bank having unblemished service throughout her career, the observation of the enquiry officer himself with regard to cheque No. 117273 that role played by the first party, borders on irregularity and that there has been a practice prevalent at the branch where the first party was working to detain/over detain the cheque supposed to' return in the clearing and in the absence of clear motive being attributed to the first party in committing the misconduct on hand, it appears to me that she is to be held responsible for the act of negligence in discharging her duties and therefore, it will be in the ends of justice if further lenient view is taken against the first party reducing her basic pay by one stage in place of two stages as imposed by the Appellate Authority. She shall be entitled to receive back the dues from the bank as against the reduction of pay by one stage. Hence the following award :—

AWARD

Reference is partly allowed. The punishment awarded against the first party reducing her basic pay by two stages is hereby replaced by reducing her pay by one stage. The management shall reimburse her for the loss she suffered on account of reduction of her pay by one stage from the date of the impugned punishment order onwards. No. costs.

(Dictated to PA transcribed by her corrected and signed by me on 15th September, 2006).

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 4 अक्तूबर, 2006

का.आ. 4167.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शंकर केमिकल लाईम, तिरूनलवेली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 394/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-9-2006 को प्राप्त हुआ था।

[सं. एल-29011/32/2006-आई. आर.(विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 2006

S.O. 4167.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 394/2004) of the Central Government Industrial Tribunal/Labour Court, Chennai as shown in the Annexure in the Industrial Disputes between the employers in relation to the management of Shankar Chemical lime, Tirunelveli and their workman, which was received by the Central Government on 15-9-2006.

[No. L-29011/32/2006-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 20th July, 2006

PRESENT

K. JAYARAMAN, Presiding Officer

Industrial Dispute No. 394/2004

(In the matter of the dispute for adjudication under clause (d) of sub-section I and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Sankar Chemical Lime and their workmen)

BETWEEN

The General Secretary : I Party/Claimant
Cement & Quarry Workers Union,
Sankar Nagar.

AND

The Partner : II Party/Management
Sankar Chemical Lime, Tirunelveli.

APPEARANCE

For the claimant : M/s. Row & Reddy, Advocates

For the Management : M/s. S. Jayaraman, Advocates

AWARD

The Central Government, Ministry of Labour vide Order No. L-29011/32/2004-IR(M) dated 28-07-2004 has referred the dispute to this Tribunal for adjudication. The Schedule mention order is as follows :—

"Whether the claim of the Cement & Quarry workers Union for payment of TA & DA for appearance before the Appellate Medical Board at Dhanbad, payment of medical fee of Rs. 300 and full wages from 20-5-02. to 30-01-03 for the following 10 workmen against the management of Shankar Chemical Lime are legal and justified? If not to what relief the workmen are entitled to? (1) Sivan Perumal, S/o. Gomu (2) Palsamy, S/o. Pitchaiah (3) Thirumalai, S/o. Subbaiah (4) Pitchaiah S/o. Sudalaimuthu (5) Jegadeesan, S/o. Sokkalingam (6) Sivanar S/o. O.Sappani (7) Kalangarayan S/o. Vallimuthu (8) Sankar S/o. Subbaiah (9) Thangasamy S/o. Perumal (10) Sudalaimuthu S/o. Krishnan."

2. After the receipt of the reference, it was taken on file as I.D. No. 394/2004 and notices were issued to both the parties and both the parties entered appearance

through their advocates and filed their Claim Statement and Counter Statement respectively.

3. The allegations of the Petitioner union in the claim Statement are briefly as follows :—

Except Mr. Kalangarayan, the other nine workmen concerned in this dispute are working as mazdoor in the Respondent/Management mines. Mr. Kalangarayan has been working as Mistry. The nature of job involved by these ten workers is to extract limestone from the mines of Respondent. As per Mines Act, the mine workers have to undergo a medical check up once in five years. These ten quarry workers under went a medical check up conducted by Respondent/Management. But, the medical officer appointed by the Respondent without properly examining these ten workers, gave a medical certificate finding them unfit to work in the mines. Taking this into account, the Respondent/Management terminated the services of all these ten workers w.e.f. 20-5-2002. Aggrieved by the order, the ten workers referred in this dispute raised an appeal before Appellate Medical Board constituted under Mines Act. As such, the medical board was constituted at Dhanbad, Bihar. During the course of medical-examination of these ten workmen, the Board found that they are fit enough to be engaged in mines and it gave a fitness report dated 20-11-2002. Accepting the Medical Board's report, these ten workmen were reinstated in service w.e.f. 30-1-2003 without any back wages. Thus, the termination of these ten workers w.e.f. 20-5-2002 is illegal, unjustified and void. The said workers were victimised by the Respondent/Management because all these workers joined the Petitioner union. The concerned employees suffered a huge economic loss because of the unfair attitute of the Respondent/Management. Wages was denied by Respondent/Management because of the illegal termination and between 20-5-2002 and 30-1-2003, concerned workmen were not gainfully employed elsewhere. On the other hand, they have incurred expenses amounting to Rs. 6,000 which being the travelling and other expenses to attend the re-examination of the Medical Board and they have further paid Rs. 300 per worker towards payment of medical fees. As per Section 29J of Mines Act, this medical fees should be refunded to the coneern employee if the Appellate Board finds the worker is medically fit for appointment. The concerned workmen approached the Respondent/Management to refund the TA & DA for appearance before the Appellate Medical Board, Bihar, payment of medical fees and full wages during the course of illegal termination between 20-5-02 and 30-1-03, but the Respondent/Management has not given the said amount, but gave an evasive reply Aggrieved by this action, the Petitioner union espousing the cause of ten workmen raised the industrial dispute before Asstt. Labour Commissioner (Central). Hence, for all these reasons the Petitioner union prays to pass an award holding the demand, of the Petitioner union is legal and justified.

4. As against this, the Respondent in its Counter Statement contended that the Respondent company is governed by the provisions of Mines Act and Mines Rules. Under Mines Rules 29B periodical medical examination of workers have to be conducted. The Directorate General of Mines Safety sent a letter dated 5-12-2001 and also a reminder dated 3-1-2002 for medical examination of Mines workers and therefore, this Respondent has arranged for medical examination of all the 118 workers and the medical examination was conducted by Dr. E. Kandasamy, who is a Civil Assistant Surgeon. Out of the 118 workmen examined by him, only 99 workers were found medically fit and 19 workmen were found medically unfit. Then the management issued a notice dated 3-4-2002 to all the 19 workers who were found medically unfit informing them at the Respondent was proceeding to declare these workers that they would no longer be in service after 33 days from the date of receipt of the notice and also informed the Deputy Director of Mines Safety Oorgaum Region, Oorgaum and the Directorate General of Mines Safety, Dhanbad and also passed order dated 16-5-2002 informing the workmen who are declared medically unfit and they will not be in service of the company from 20-5-2002. Out of 19 workmen, nine workers accepted the order of discharge issued by the company and received their dues. However, ten workmen concerned in this dispute filed an appeal against the declaration given by the doctor, as such medical re-examination by the Appellate Medical Board was held at Koyla Nagar Hospital, Koyla Nagar, Dhanbad on 20-11-2002. In that medical re-examination, the Board has come to a conclusion that they are medically fit to work in mines in the mean time, the concerned ten workmen raised an Industrial dispute questioning their non-employment and the same was referred by the Central Govt. by an order dated 3-4-2003. But however, the Petitioner herein did not bother even to enter appearance or to file any Claim Statement, even after two notices were sent to them and this Tribunal by an Award dated 11-9-2003 observed that Petitioner union is not interested in pursuing the reference and in view of the circumstances, the Tribunal returned the reference in I.D. No. 64/2003 to the Ministry for want of prosecution. Therefore, order dated 16-5-2002 has become final. However, the Respondent/Management reinstated these ten workmen on and from 30-1-2003. Therefore, these ten workmen were not in service from 20-5-02 to 30-1-03 i.e. for a period of 8 months and 10 days and admittedly they have not worked during that period

and with regard to workman one Mr. Pitchai is concerned, though he joined the service as per the direction of Medical Appellate Board, he did not appear thereafter and he has absented for a long period and ultimately left the service on his own accord expressing his inability to continue in work and discharged his duties in view of his medical unfitness. Any how the reference itself is incompetent and bad in law. The Petitioner union has no locus stand to raise the present dispute and there is no proper espousal of the present dispute by substential number of workmen which is a basic requirement for a dispute to be referred. The allegation that medical officer did not properly examine them is totally bereft of truth. The concerned employees were rightly terminated after medical examination, in accordance with Mines Rules. The allegation that workmen were victimized since they joined the Petitioner union is totally devoid of any merits and without any substance. The claim made by Petitioner union in the annexure is unjustified and unsustainable. Since the workmen had not worked during the period mentioned in the dispute, they are not entitled to any wages for that period on the ground of 'No work - no pay'. Further, the relief claimed by the Petitioner union in ID No. 64/2003, no relief having been granted by this Tribunal and on that ground also, this industrial dispute is not maintainable. None of the rules provide TA/DA. as claimed by the Petitioner. Under Rule 29 J(3) in case, the Medical Appellate Board finds the workmen fit for employment in Mines, the fees of Rs. 300 can be refunded and, not otherwise. Any how the Respondent denies the figures mentioned in Annexure A to the Claim Statement and claim made by the Petitioner union. Hence for all these reasons, the Respondent prays that the claim may be dismissed with costs.

5. In these circumstances, the points for my consideration are :—

(i) "Whether the claim of the Petitioner union for payment of TA/DA, Payment of medical fees, full wages from 20-5-2002 to 30-01-2003 for the ten workmen mentioned in the reference is legal and justified?"

(ii) "To what relief the concerned employees are entitled?"

Point No. 1:—

6. The admitted facts of this case are as per the Mines Act and Rules, periodical medical examination of mines workers have to be conducted and as per the direction from Directorate General of Mines Safety, the Respondent/Management herein arranged for medical examination of all the 118 workers in the mines. In the medical examination conducted by Dr. E. Kandasamy, who is a Civil Assistant Surgeon, found that out of 118 workers, 99 workers were found medically fit and 19 workers were found medically unfit and accordingly, he issued certificates in Form 'O' which was marked as Ex. M I and basing on it the Respondent/Management issued a notice dated 3-4-2002 under Ex. W-7 series informing that the Respondent was proceeding to declare these workers that they would no longer be in service after 33 days from the date of receipt of the notice and after that on 16-5-2002 the Respondent discharged the 19 workers. After that 10 out of 19 workers have preferred an appeal before the Appellate Medical Board and the medical board after re-examination has declared them as fit to continue in mines. Subsequently, they have been reinstated in service by Respondent/Management.

7. The contention of the Petitioner in this case is that the concerned ten workmen were victimized by Respondent/Management because these ten workers join the Petitioner union and the Respondent/Management by the reason of undue influence made the medical practitioner who examined the concerned ten workers gave false medical certificate, which was ultimately disproved by the Appellate. Medical Board after re-examination. It is further contended on behalf of the Petioner that, these ten workers have suffered a huge economic loss because of this unfair attitude of the Respondent/Management and had these ten workmen been on service between 20-5-2002 and 30-1-2003 (8 months and 10 days) the wages would have been Rs. 19,620 per worker and this wage was denied by the Respondent/Management because of the illegal termination. Further they have not gainfully employed during this period, on the other hand, they have incurred an amount of Rs 6000 which being travelling and other expenses to attend the re-examination before the Appellate Medical Board. Further, they have paid Rs. 300 each towards payment of medical fees as per section 29(j) of the Mines Act, this medical fees should be refunded to the concerned employees, if the Appellate Medical Board finds the workmen are medically fit for appointment. In this case, since the Medical Board had found these ten workers are medically fit to work in mines, they are entitled to this amount also and therefore, the Respondent is liable to pay the claim made by the Petitioner union for the concerned employees.

8. But, as against this, on behalf of the Respondent it is contended that reference itself is incompetent and bad in law. The Petitioner union has no locus standi to raise the present and there is no proper espousal of present dispute by substaintial number of workmen, which is the basic requirement for the dispute. The next contention of the Respondent in this case is it is false to allege that the medical officer did not properly examine them and the Respondent/Management has exercise undue influence over the Doctor to declare them as unfit to work in mines. It is only after proper medical examination after periodical check up and after a lapse of five years, the concerned employees were declared as unfit. Further, the said Doctor has declared the 19 workers out of 118 workers as unfit and out of which 9 workers have accepted the report of medical examination and they have been discharged from service. Therefore, there is no merit in the contention of the Petitioner that the Doctor has not properly examined the concerned employees and the Respondent has exercised undue influence over the Doctor and the concerned workers have been rightly termination after medical examination in accordance with Mines Rules. It is

further alleged on behalf of the Respondent that there is no proof to show that they have been victimized by the Respondent/Management since, they joined the Petitioner union. With regard to their claim of back wages from 20-5-2002 to 30-1-2003 they have raised the industrial dispute questioning their non-employment and the same was referred to by the Central Govt. by an order dated 2-4-2003 which was then taken on file by this Tribunal as I.D.No.64/2003. However, since the Petitioner herein did not enter appearance nor filed any Claim Statement even after two notices, hence this Tribunal by its award dated 11-9-1993 observed that the Petitioner union is not interested in pursuing this reference and in view of these circumstances, the Tribunal returned the reference made in the Industrial Dispute to the Ministry for want of prosecution. Therefore, non-employment of these workmen which arose pursuant to the discharge from service by an order dated 16-5-2002 has become final, as there is no award holding that termination of these workmen is unjustified nor is there any award directing reinstatement of these ten workmen. Further, they have not claimed back wages in I.D. No. 117/2003 which was filed by them for reinstatement. Under such circumstances, they cannot claim any amount from this Respondent. It is the further contention of the Response that no doubt under Rule 29J(3) of Mines Rules it is mentioned that 'in case, the Appellate Medical Board finds the workmen fit for employment in mines, the fees of Rs. 300 can be refunded' but for that amount also the concerned workmen are not entitled to get the same. Therefore, they are not entitled to claim any amount from the Respondent as alleged by them. The Respondent further disputed the claim made by the concerned workers with regard to their salary and other things.

9. It is admitted in this case that there is no specific rule which says that under these circumstances the workers are entitled to reimburse the amount for the discharge. In this case if the Petitioner is established before this Court that the concerned workers have been terminated by the Respondent/Management illegally and if the Petitioner is established before this Tribunal that the concerned Doctor was influenced by the Respondent/Management to give a certificate that they are medically unfit, I think they are entitled to get the amount claimed by them. But, there is no proof to establish fact that Respondent/Management has wantonly victimized the concerned workmen in this case. It is admitted by the Petitioner that as per Mines Rules and Act periodical medical check up has to be done and all the the 118 workers have been periodically checked up by the Doctor and the Doctor has examined all the 118 mines workers and he declared only 19 persons as medically unfit to work in mines. Under such circumstances, I am of the opinion that the Petitioner has not established the allegations that the Respondent/Management has wantonly victimized the concerned workers due to the fact that they have joined the Petitioner union. Similarly, they have also not established the fact that the Respondent has influenced the Doctor to gives such a certificate to them. As I have already stated that there is no provision in the Mines Act or Rules that in such circumstances the workers concerned, are entitled to claim the amount from the Respondent/ Management. In these circumstances, it is pertinent to note that the Deputy Director of Mines Safety though has given a criminal complaint before the Judicial Magistrate No. V at Tirunelveli with regard to the Respondent/Management and also the Doctor, but the Hon'ble High Court of Madras has quashed the criminal complaint pending before the Judicial Magistrate. Under these circumstances, it cannot be said that without following the procedure the Doctor has given a certificate stating that the 19 workers are medically unfit. Therefore, the allegation of the Petitioner that without proper examination, the Doctor has declared the concerned employees are unfit to work in the mines is not proved. As I have already stated, it is also not proved before this Tribunal that the Respondent has wantonly victimized the concerned employees on the ground that they have joined the Petitioner union. No doubt, the Secretary of the Petitioner union has examined himself in this case and has stated that the concerned workers have not gainfully employed during the period of discharge namely from 20-5-2002 to 30-1-2003 (eight months and ten days), since the Petitioner has not established that they are legally entitled to the amount claimed for the period, I am not inclined to accept the contention that concerned workers are entitled to get the amount from the Respondent. The concerned workmen also claimed payment of T.A./D.A. for their appearance before the Appellate Medical Board at Dhanbad, but they have not stated under what provision of rule or law, they are entitled to claim the payment of T.A./D.A. for appearance before the Appellate Medical Board. As I have already stated that since they have not established the fact that the Respondent has victimized and wantonly terminated the services of the concerned employees, I am not inclined to accept the contention that only because of the action of the Respondent/ Management, they have to appear before the Appellate Medical Board. Unless and until they have established the fact that the Doctor has committed a gross misconduct in giving his opinion and unless and until they have not established the fact that Respondent/Management has wantonly victimized the concerned employees on the ground that they have joined the Petitioner union, I am not in a position to give the relief claimed by the Petitioner union.

10. The next thing to be decided in this case is —

"Whether the payment of medical fees of Rs. 300 made by the concerned workers are to be reimbursed by the Respondent/Management or not?"

11. It is admitted that as per section 29J(3) of Mines Act, in case, the Appellate Medical Board finds the workman fit for employment in mines, the fees of Rs. 300 can be refunded. In this case, after the certificate given by Dr. E. Kandasamy, the Appellate Medical Board had

re-examined the concerned employees and come to the conclusion that they are fit for employment in mines and therefore, I find the concerned workers are entitled to Rs. 300 which they have paid for medical re- examination before the Appellate Medical Board. No doubt, I find some force in the contention of the learned counsel for the Respondent that in the previous proceedings in I.D. No. 117/2003 in which the concerned workmen have raised the dispute for reinstatement and they have not claimed back wages and they have not contested the case, on the other hand, they have filed a memo stating that the matter was settled out of Court and under such circumstances, they are not entitled to claim any amount from the Respondent/ Management, but though I am inclined to accept the contention of the Respondent with regard to the amount of back wages and also with regard to T.A./D.A., with regard to reimbursement of Rs. 300 since Rule 29J(3) clearly says that if the Appellate Medical Board had come to conclusion that the concerned employees are fit to continue in mines, they are entitled to be reimbursed. Under such circumstances, I find the concerned workers are entitled to get the amount which they have already paid for medical re-examination. As such, I find the demand for payment of TA/D.A. and demand for full-wages from 20-5-2002 to 30-01-2003 are not justified, the claim of refund of Rs. 300 is legal and justified.

Point No. 2 :—

The next point to be decided in this case is to what relief the Petitioner is entitled?

12. In view of my foregoing findings that except the medical fees of Rs. 300 paid by the concerned workers, the other demands made by the concerned workers are not justified, I find each employee mentioned in the reference is entitled to get medical fees of Rs. 300 paid by them towards medical re-examination. No Costs.

13. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 20th July, 2006.)

K. JAYARAMAN, Presiding Officer

Witnesses Examined :—

For the I Party/Claimant WW1 Sri A.Vailkandan

For the II Party/Management MW1 Sri V.R. Rangarajan

Documents Marked :—

For the I Party/Claimant :—

Ex. No.	Date	Description
W 1 series		Xerox copy of the train tickets
W2	16-05-02	Xerox copy of the order issued to Palsamy
W3	28-01-03	Xerox copy of the order issued to Pitchaiah
W4 series		Xerox copy of the wage slip
W5 series	Nil	Xerox copy of the summons to witnesses and a letter from Director of Mines safety.
W6	18-02-97	Xerox copy of the letter from Government of India Enclosing standing orders.
W7 series		Xerox copy of the report of medical examination of workmen concerned in this dispute and notice from Respondent/ Management.
W8 series	Nil	Xerox copy of the report of medical re-examination by appellate Medical Board of all concerned workmen.

For the II Party/Management :—

Ex. No.	Date	Description
M1	Nil	Xerox copy of the report of medical examination under rule 29B of Mines Rules.
M2	22-11-02	Xerox copy of the letter from Member Secretary enclosing Reports of Appellate Medical Board.
M3	27-08-03	Xerox copy of the resignation letter given by Pitchaiah.
M4	27-11-03	Xerox copy of the Award and covering letter of Tribunal.
M5	18-12-97	Xerox copy of the letter from RLC to Respondent Enclosing certified standing orders.
M6	Nil	Xerox copy of the criminal complaint preferred by Deputy Director of Mines Safety.
M7	13-09-04	Xerox copy of the order of High Court in OP No. 42699/03.

नई दिल्ली, 4 अक्तूबर, 2006

का.आ. 4168.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल मिनरल डेवलपमेन्ट कारपोरेशन के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलौर के पंचाट (संदर्भ संख्या 57/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-2006 को प्राप्त हुआ था।

[सं. एल-26011/30/87-डी-III बी.]

बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 2006

S.O. 4168.— In pursuance of Section 17 of the Industrial Disputes Act. 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 57/98) of the Central Government Industrial Tribunal/Labour Court Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of National Minerals Development Corporation and their workman, which was received by the Central Government on 25-9-2006.

[No. L-26011/30/87-D-III.B]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 14th September 2006

PRESENT:

Shri A.R. SIDDIQUI, Presiding Officer

C.R.No. 57/98

I PARTY	II PARTY
The General Secretary, Donimalai Iron Ore Project Employees Association, Donimalai Township, Donimalai, Bellary Dist-583118 Karnataka State	The General Manager, National Mineral Development Corporation, Donimalai Township, Donimalai, Bellary District-583118 Karnataka State.

APPEARANCES

1 sl Party	Shri B.D. Kuttappa, Advocate.
2nd Party	Shri Pradeep S. Sawkar Advocate.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order. No. L-26011/30/87-D-III(B) dated 12th June 1998 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of M/s. Naional Mineral Development Corporation, Donimalai in not agreeing to extend the benefit of stepping up of pay of seniors drawing lesser pay than their juniors on appointment as per FR 22c is jusified? If not, to what relief the workmen are entitled?"

2. This is the dispute raised by the General Secretary, Donimalai Iron Ore Project Employees Association, Sandur Taluk, Bellary District in respect of 19 employees working under the management (names not mentioned and the case made out by the association, hereinafter called the first party union) is that these 19 employees joined the services of the management on different dates and one employee by name Shri D. Sathiyaseelan joined the service on 29-10-1977 in the Civil department. Though he joined the service subsequent to the said 19 employees, he has been drawing salary higher than those 19 employees and therefore, anomaly arose on account of promotion and appointment of the said Sathiyaseelan and the other 19 employees who were seniors to him; that said Sathiyaseelan became eligible for annual increment in the month of January i.e. on 1-1-1986 and he was promoted and appointed on 30-12-1985 in the grade of Mechanic Cum Operator Grade-II w.e.f. 30-12-1985. On promotion and appointment he became eligible for annual increment whereas, the employees involved in this dispute were appointed and promoted on different dates around the year 1985 and they became eligible to draw the annual increment after they were appointed and promoted. It is at this stage said Sathiyaseelan started drawing a higher basic pay above these 19 employees; that in case of anomaly which has happened in the instant case it is to be rectified by taking recourse to the provisions of FR 22c as per the practice and procedure being followed from the inception till the recent past. However, the management has not followed the procedure as prescribed under FR 22c; that though the service condition of the employees in the management is governed by the Service Regulations as well as Standing Orders but whenever the Regulations are not applicable then the provisions set out in FR 22c is made applicable as evident from the Regulation 6 of the NMDC Service Regulations. Therefore, the management is not justified in allowing the junior to draw the basic pay which is higher than the Seniors. In the result, the employees involved in this case are entitled to the relief of step up of their pay and consequential benefits.

3. The management by its Counter Statement opposing the claim of the first party union among other things contended that the demand made by it for applying FR 22c in order to step up the pay of the Seniors is misconceived and untenable as the said provisions is not applicable at all; that the Certified Standing Orders as well as the Rules and Regulations of the management corporation regulate the service conditions of its employees covering all matters namely, Seniority, fixation of pay on appointments, promotions etc; that consequent on the implementation of the settlement dated 17-9-1983, certain anomalies regarding Juniors drawing higher pay than the Seniors had cropped up due to the fact that in certain cases the pay in two different stages in pre-revised scales had been fixed at the same stage in the revised scale. Those

anomalies were taken up at the corporate level in bipartite meetings and in this regard a decision was taken in the meeting held 9-2-1985 and an office order dated 18-3-1985 was issued setting right the anomalies; that the demand of the first party union is intended to give undue benefits to certain workmen by way of seeking of step up their pay on par with their juniors under the provisions of FR 22C which provisions are not automatically applicable in the case of workmen of the corporation governed by the wage settlements. The said provision is applicable only in respect of any class of Govt. servants to which the President may, by general or special order declare it to be applicable; that in the case of appointment to higher post by open selection, the workman may get appointed to any higher post on the basis of his qualification, performance in the test/interview etc. and in such cases there cannot be any comparison of his seniority vis-a-vis others, in the lower post. A workman who may be junior in the lower post may on appointment to higher post draw higher pay in the higher post by virtue of his standard date of increment, the revision of wage structure taking place in between the date of his selection and appointment vis-a-vis his erstwhile seniors in the lower post. The seniority is maintained post wise and therefore, when appointment is made to a higher post by open selection among the departmental candidates there is possibility of a junior in the lower post getting appointed to a higher post earlier to his seniors in the lower post on the basis of his performance in the interview/test. Therefore, question of comparing his seniority in the lower post and also his pay in the lower post does not arise apart from it being irrelevant and unjustified; that wherever certain workmen who were seniors in the lower post have been appointed to the higher posts much earlier to the appointment of their junior in the lower post, their pay in the higher post is fixed as per the normal rules of the corporation with reference to their pay in the lower post. Subsequently if another workman junior to the seniors is also selected and appointed to the same higher post, his pay is also fixed with reference to his basic pay in the lower post. If his pay in the lower post happens to be more by virtue of drawal of increment in the lower post and fixation of his pay in the revised scale of pay as per the wage settlement, it is likely that he may draw higher pay on appointment to the higher post subsequently. In that case Seniors appointed earlier cannot claim stepping up of their pay on par with the pay of the juniors drawn in the lower post. Therefore, the stepping up of the pay of the workman appointed to higher post earlier cannot be done by the application of FR 22C on par with the workman subsequently appointed to the higher post. Therefore, the claim of the first party is far fetched, ill-conceived without any merit and is liable to be rejected.

4. During the course of trial, the management examined one witness as MW1 by filing his affidavit evidence and got marked 5 documents at EX. M1 to M5. This witness who happened to be working as Dy. Manager, Personnel in the management reiterated almost all the aforesaid contentions taken by the management in the Counter Statement and he was cross examined on behalf of the first party union/workman. However, despite the sufficient opportunity given to the first party union and its workmen they have not led any oral or documentary evidence in support of their claim made out in the Claim Statement. When the matter was taken up for final argument on 22-8-2006 there was no representation from the first party union/workmen and learned counsel appearing for them also remained absent. Therefore, after hearing the learned counsel for the management, case is posted this day for award.

5. As argued for the management, the averments in the affidavit filed by its witness touching the important particulars of the case have remained to be challenged in his cross examination on behalf of the first party. There was no case made out by the first party in the cross examination of MW1 as to how the management was not justified in not stepping up the pay of the employees involved in the present dispute except to elicit from his mouth that the pay of the employees who have raised the present dispute is less than the pay of the said Sathiyaseelan as per the document produced and marked at EX.W1 in his cross examination. Therefore, the affidavit evidence of MW1 since has gone very much unchallenged and uncontroverted on the material aspects of the case not disputing the fact that in case of promotion of the junior appointed to the higher post drawing higher salary in the lower post his pay will be fixed on promotion taking into consideration the salary drawn by him in the lower post. It is the case of the management that when junior is promoted on the basis of open selection and merit and if his salary as a junior in the lower post was higher then the salary of his Senior in lower grade before promotion, provision of FR 22c is not applicable. This position of law has not been challenged during the course of cross examination of MW1. Provisions of FR 22 c read as under :—

> "The anomaly should be directly as a result of the application of FR 22C. For example, if even in the lower post the junior officer draws from time to time a higher rate of pay than the senior by virtue of grant of advance increments, the above provisions will not be invoked to step up the pay of the senior officer. The orders refixing the pay of the senior officers in accordance with the above provisions shall be issued under FR 27. The next increment of the senior officer will be drawn on completion of the requisite qualifying service with effect from the date of refixation of pay."

6. Therefore, as contended for the management, if in the lower post the junior officer was drawing from time to time a higher rate of pay than the senior by virtue of grant

of advance increments, the above provision namely, FR 22C will not be invoked to step up the pay of the Senior Officer. Therefore, the statement of MW1 in his affidavit on the above position of law not being challenged and disputed in the course of his cross examination or atleast by way of any oral or documentary evidence on the part of the first party union/workmen, this court is left with no option but to go by the averments made in the affidavit of MW1 on the above said position of law namely, the provisions of FR 22C. As noted above, FR 22C is not applicable when a junior was promoted and appointed having higher salary than his Seniors in the lower post, his salary namely on promotion and appointment will be higher than the salary drawn by his Seniors on their promotion and appointment. It is not the case of the first party union/workmen that the said Sathiyaseelan though happened to be junior to the employees involved in this case was not drawing salary higher than his seniors before he was promoted and appointed to the higher post. It is also not the case of the first party union/workmen much less to be established that said Sathiyaseelan was promoted on the basis of open selection based on merits. Therefore, in the light of the above, there is no hesitation in coming to the conclusion that first party union/workmen have failed to establish their claim that provisions of FR 22C are applicable in their case for stepping up of their pay on par with their junior, Sathiyaseelan and that the management was not justified in not resorting to the said provision. Hence the following award :—

AWARD

The reference stands dismissed. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 14th Septembr 2006)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 4 अक्तूबर, 2006

का.आ. 4169.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. मकसूद अहमद पुत्र सुकमानभाई, लाईमस्टोन खादान मालिक कोटा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोटा (राजस्थान) के पंचाट (संदर्भ संख्या 12/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-2006 को प्राप्त हुआ था।

[सं. एल-11011/65/2002-आईआर (विविध)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 2006

S.O. 4169.— In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2003) of the Central Government Industrial Tribunal/Labour Court Kota (Rajasthan) now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Maksood Ahmad S/o Suleman Bhai Limestone Khadan Malik and their workman, which was received by the Central Government on 26-9-2006.

[No. L-11011/65/2002-IR (M)]

B. M. DAVID, Under Secy.

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा/राज.

पीठासीन अधिकारी--के.के. गुप्ता, आर.एच.जे.एस.

रेफ्रेरेन्स प्रकरण सुभक: लो. न्या./केन्द्रीय/12/03

दिनांक स्थापित : 13-2-03

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेशांक एल-29011/65/2002 आईआर (एम) दि. 4-2-03

रेफ्रेरेन्स अन्तर्गत धारा 10(1)(घ)

औद्योगिक विवाद अधिनियम, 1947

मध्य

जनरल सेक्रेटरी, राष्ट्रीय मजदूर संघ (इन्टक)
रामगजमण्डी, जिला कोटा ।

--प्रार्थी श्रमिक यूनियन

एवं

मै. मकसूद अहमद पुत्र श्री लुकमान भाई,

लाईम स्टोन खदान मालिक, सुकेत जिला कोटा ।

--अप्रार्थी नियोजक

उपस्थित

प्रार्थी श्रमिक यूनियन की ओर से प्रतिनिधि:	श्री सतीश पचौरी एवं श्री रामगोपाल गुप्ता (मंत्री)
अप्रार्थी नियोजक की ओर से प्रतिनिधि:	श्री वी.के. सक्सेना एवं श्री मकसूद अहमद

अधिनिर्णय दिनांक : 23-8-06

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा अपने उक्त आदेश दिनांक 4-2-03 के जरिये निम्न रेफ्रेरेन्स, औद्योगिक विवाद अधिनियम 1947 (जिसे तदुपरान्त "अधिनियम" से सम्बोधित किया जावेगा) की धारा 10(1) (घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ सम्प्रेषित किया गया है :—

"क्या प्रबन्धन श्री मकसूद अहमद पुत्र श्री लुकमानभाई लाईम स्टोन खदान मालिक, सहित जिला कोटा राज. द्वारा उनकी खदान में कार्यरत कर्मकारों के लिए समझौता वार्ता द्वारा दैनिक मजदूरी में बढ़ोतरी न करने की कार्यवाही उचित एवं न्यायसंगत है? यदि नहीं तो संबंधित कर्मकार किस अनुतोष के हकदार हैं ?"

2. रेफ्रेरेन्स, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत रूप में जारी की गयी । प्रार्थी श्रमिक यूनियन की ओर से अपना क्लेम स्टेटमेन्ट प्रस्तुत किया गया ।

3. पत्रावली वास्ते पेश होने जवाब अप्रार्थी दि. 6-1-07 को नियत थी, किन्तु आज स्वयं प्रार्थी श्रमिक यूनियन प्रतिनिधि श्री रामगोपाल गुप्ता एवं अप्रार्थी प्रबन्धक मकसूद अहमद ने न्यायाधिकरण में उपस्थित होकर संयुक्त रूप से प्रार्थना-पत्र के साथ समझौता-पत्र प्रस्तुत कर यह निवेदन किया कि चूंकि पक्षकारों के मध्य लम्बित प्रकरण में लोक न्यायालय के भावना से प्रेरित होकर आपसी समझौता हो गया है, अत: पत्रावली आज ही तलब कर प्रस्तुतशुदा समझौते के आधार पर मामले को अन्तिम रूप से निस्तारित कर दिया जावे । पक्षकारों की प्रार्थना पर पत्रावली आज पेशी में ली गयी । प्रस्तुतशुदा समझौते-पत्र की शर्त सं. 2 के वर्णितानुसार पक्षकारों के मध्य यह तय हुआ कि प्रबन्धक, संस्थान में एवाउ ग्राउण्ड में कार्यरत समस्त कुली-वेलदारों को 54 रु. प्रतिदिन मजदूरी तथा भारत सरकार द्वारा घोषित विशेष भत्ता जो समय-समय पर परिवर्तनशील होगा, भुगतान करेगा तथा खदान के बिलोग्राउण्ड में काम करने वाले समस्त कुली/वेलदारों को 65 रु. प्रतिदिन मजदूरी व घोषित महंगाई भत्ता देगा । शर्त सं. 3 में वर्णितानुसार प्रबन्धक लीज क्षेत्र/खदान में कार्यरत सभी स्टोन कटर (कारीगर) को 78 रु. प्रति सौ वर्गफुट पत्थर कटाई के हिसाब से व भारत सरकार द्वारा घोषित परिवर्तनशील महंगाई-भत्ता विलोग्राउण्ड का देगा । शर्त सं. 4 में वर्णितानुसार प्रबन्ध के द्वारा संस्थान में कार्यरत कर्मचारियों को जिनको कि 2000 रु. तक वेतन मिलता है, की 100 रु. प्रतिमाह व इससे अधिक वेतन पाने वाले की 150 रु. प्रतिमाह वेतनवृद्धि की जावेगी व घोषित बिलों ग्राउण्ड का विशेष महंगाई-भत्ता भी भुगतान किया जावेगा । शर्त सं. 5 में वर्णितानुसार भाग नं 4 व 5 संघ (यूनियन) द्वारा मधुर औद्योगिक सम्बन्ध बनाये रखने की वापस ले ली गयी । शर्त सं. 6 में वर्णितानुसार मांग नं. 6 के तहत खदान में कार्यरत श्रमिकों व कर्मचारियों के बच्चों को आठवीं कक्षा तक की किताबों का बिल पेश करने पर छात्रवृत्ति दी जावेगी । शर्त सं. 7 में वर्णितानुसार सभी श्रमिकों/कर्मचारियों को नियमानुसार सवैतनिक अवकाश दिया जावेगा शर्त सं. 8 में वर्णितानुसार खदान में कार्यरत सभी श्रमिकों/कर्मचारियों को नियमानुसार बिलोग्राउण्ड की सुविधा प्रबन्धक द्वारा दी जावेगी । यह भी तय हुआ कि उपरोक्त समझौता 1-4-2002 से प्रभावशील होगा तथा जो भी एरियर बनेगा उसका भुगतान इस समझौते से दो माह के अन्दर-अन्दर संघ (यूनियन) प्रतिनिधि के समक्ष श्रमिकों को कर दिया जावेगा ।

चूंकि पक्षकारों के मध्य लम्बित रेफ्रेरेन्स/विवाद से उपरोक्त प्रकार से आपसी समझौता सम्पन्न हो गया है और समझौते उपरान्त पक्षकारों के मध्य अब कोई विवाद शेष नहीं रहा हैं, अत: वह इसके अतिरिक्त अन्य कोई अनुतोष अप्रार्थी प्रबन्धक से प्राप्त करने के अधिकारी नहीं है और प्रस्तुतशुदा समझौते के आधार पर सम्प्रेषित रेफ्रेरेन्स को इसी प्रकार अधिनिर्णित कर उत्तरित किया जाता है ।

के. के. गुप्ता, न्यायाधीश

नई दिल्ली, 4 अक्तूबर, 2006

का.आ. 4170.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचिन रिफाईनरी लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एरनाकुलम (कोच्ची) के पंचाट (संदर्भ संख्या 78/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-9-2006 को प्राप्त हुआ था।

[सं. एल-30012/33/99-आई. आर. (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 2006

S.O. 4170.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Reference No. 78/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cochin Refineries Ltd. and their workman, which was received by the Central Government on 27-9-2006.

[No. L-30012/33/99-IR (Misc.)]

B. M. DAVID, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri P.L. Norbert, B.A., L.L.B., Presiding Officer

(Thursday the 21st day of September, 2006/
30th Bhadrapada, 1928)

I. D. 78/2006

I.D. 74/99 of State Labour Court, Ernakulam

Workman/Union	The General Secretary Cochin Refineries Employees' Association Ambalamughal Cochin
	Adv. Shri C.S. Ajith Prakash
Management	The General Manager (HRM) Cochin Refineries Ltd. Ambalamughal Cochin
	Adv. M/s Menon & Pai

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication to State Labour Court, Ernakulam from where later it was transferred to this court as per order of High Court of Kerala. The reference is :—

"Whether the action of the management of Cochin Refineries Ltd. to limit on duty facility to office bearers of the unions to attend conciliation proceedings for issues of collective nature is justified? If not, to what relief the workmen are entitled to?"

2. Though notice was sent from this court to both parties and they had entered appearance initially, thereafter the union is remaining absent. Both sides have filed their pleas. But neither the office bearer of the union nor the counsel is present to adduce evidence and proceed with the case. Hence it has to be presumed that there is no existing dispute for adjudication. Therefore I find that the action of the management in treating the participation of office bearers of the union in conciliation proceedings involving issues of collective nature alone as duty, is justified and an award is passed accordingly. No cost.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 21st day of September, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX : NIL

नई दिल्ली, 4 अक्तूबर, 2006

का.आ. 4171.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा 16 अक्तूबर, 2006 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध मध्य प्रदेश के निम्नलिखित क्षेत्रो में प्रवृत्त, होंगे, अर्थात्,

"जिला-धार, तहसील-पीथमपुर में पीथमपुर नगर पालिका की सीमाओं के अन्तर्गत आने वाले क्षेत्र औद्योगिक क्षेत्र सेक्टर 3 एवं 4 सहित, उन क्षेत्रों के अतिरिक्त जहां उक्त प्रावधान पहले ही प्रवृत्त किए जा चुके हैं ।"

[सं. एस-38013/55/2006-एसएस-1]

एस.डी. जेवियर, अवर सचिव

New Delhi, the 4th October, 2006

S.O. 4171.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employee's State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 16th October, 2006 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79, and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Madhya Pradesh namely :—

"The area comprising the Municipal Limits of Pithampur, including Industrial Area Sector III and IV in Tehsil Pithampur District : Dhar in addition to areas in which the said provisions of the Act have already been brought into force."

[No. S-38013/55/2006-SS-I]

S.D. XAVIER, Under Secy.

नई दिल्ली, 10 अक्तूबर, 2006

का.आ. 4172.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 2011 दिनांक 10-5-2006 द्वारा किसी भी तेल क्षेत्र जो कि ओद्यौगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 17 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 19-5-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए और बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 19-11-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. सं. एस-11017/10/97-आईआर (पीएल)] गुरजोत कौर, संयुक्त सचिव

New Delhi, the 10th October, 2006

S.O. 4172.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of Sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2011 dated 10-5-2006 the service in the any Oil Field which is covered by item 17 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 19th May, 2006.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 19th November, 2006.

[F. No. S-11017/10/97-IR(PL)]

GURJOT KAUR, Jt. Secy.

नई दिल्ली, 10 अक्तूबर, 2006

का.आ. 4173.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. ..... दिनांक 13-4-2006 द्वारा प्रतिभूति, मुद्रणालय, हैदराबाद जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 12 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 17-4-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ढ़) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 17-10-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. सं. एस-11017/8/97-आईआर (पीएल)] गुरजोत कौर, संयुक्त सचिव

New Delhi, the 10th October, 2006

S.O. 4173.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. ..... dated 13-4-2006 the service in the Security Printing Press, Hyderabad which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 17th April, 2006.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 17th October, 2006.

[F. No. S. 11017/8/97-IR(PL)]

GURJOT KAUR, Jt. Secy.

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